

FIREARMS LEGISLATION

HEARINGS
BEFORE THE
SUBCOMMITTEE ON CRIME
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
NINETY-FOURTH CONGRESS
FIRST SESSION
ON
FIREARMS LEGISLATION

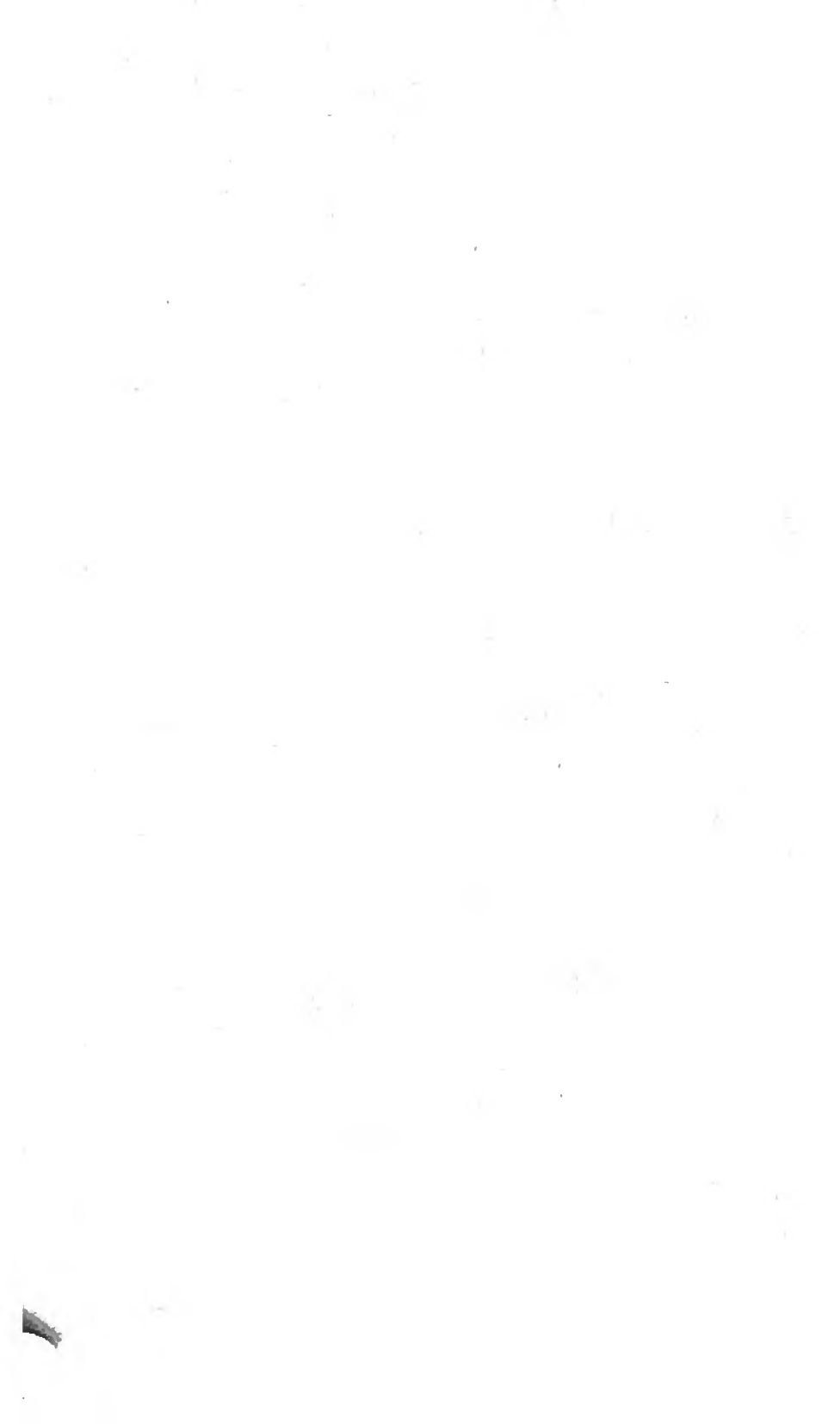
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Part 8



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FIREARMS LEGISLATION

WEDNESDAY, MAY 14, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Hughes, McClory, and Ashbrook.

Also present: Maurice A. Barboza, counsel; and Constantine J. Gekas, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

Today, the Subcommittee on Crime of the House Judiciary Committee continues hearings on firearms legislation. What we have been attempting to do is to increase our modest knowledge of the effects of the efforts of the Government to control firearms violence. In this regard, we are privileged to hear from two of our colleagues in Congress this morning, Congressman Harrington, as well as the gentleman from California, Ron Dellums. Additionally we will have Mr. Owen Quarberg of the Utah County Sheriff's Department who will be accompanied and introduced by our colleague, Gunn McKay. Finally, we will have a gun shop owner from Leesport, Pa., Mr. William Kerschner, who will be introduced by his Member in the Congress, Gus Yatron.

I welcome now Michael Harrington, who serves with great distinction in the Congress on the National Relations Committee and the Government Operations on Intelligence, the CIA Committee.

Congressman Harrington brings a great background and has been before the Judiciary Committee with increasing frequency over the last several years. I welcome him as a colleague and as a personal friend. I note that his prepared statement is before the subcommittee and will be introduced into the record at this point, which will then free Congressman Harrington to make his presentation in whatever manner he chooses.

Welcome, Mr. Harrington, you may begin.

TESTIMONY OF HON. MICHAEL J. HARRINGTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. HARRINGTON. Mr. Chairman, thank you for the efforts of rehabilitation that you have just afforded me, and my appreciation particularly to Ron Dellums who was patient in letting me precede him

this morning. I have another committee meeting dealing with a broader issue of arms control, which I would like to attend, and that is my reason for my request to go first this morning.

I also appreciate the subtle word of warning of need to be appreciative of the schedule you have, and I will attempt to honor it. I do have a statement, and I appreciate that it is being made a part of the record, and I would like to perhaps paraphrase it, if I could for a few minutes, and talk to some of the concerns that I think have engendered my interest.

[The prepared statement of Hon. Michael J. Harrington follows.]

STATEMENT OF HON. MICHAEL J. HARRINGTON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MASSACHUSETTS

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss what I consider to be one of the most important issues facing this Congress—the issue of gun control.

Attorney General Levi, in a welcomed statement on the need for stronger gun control measures, was quoted as saying that “the test of our government may lie in its ability to open thoughtful discussion on issues marked by deep emotional divisions.”

I fully agree with Mr. Levi's statement, but would further suggest that the test of our government may also lie in its ability to meet, head-on, its responsibility to act in the best interest of its citizens.

By the Attorney Generals' standards, our government has clearly proved to be unequal to the challenge—thoughtful and creative discussion has never characterized Congressional debate on the subject of gun control. If we use effective governmental action as the measure, we may conclude that we have failed to live up to our responsibility to govern in the national interest.

Congressional and Executive failure to institute a realistic gun control program has served as a damning indictment of our avowed willingness to provide effective national leadership in areas of vital importance to the safety and well-being of each and every citizen. The result of our acquiescence in the critical area of gun control is directly reflected in the 25,000 gun deaths that occur in this country each year.

We have, through our inaction, contributed to the institutionalization of violence as a way of life in America.

Clearly, we have not acted alone in this endeavor. Historical factors unique to the United States such as our nostalgia for the American frontier and our reference for self-reliance and rugged individualism have provided the underpinnings upon which our gun culture rests.

Our failure to provide leadership, however, is a direct result of our ability or unwillingness to disregard politically expedient half-measures such as the 1968 Gun Control Act, and directly confront these traditional inclinations which threaten our society.

That is, of course, a difficult route to take. Traditionally, the political pressures which have been brought to bear on wavering legislators have been extremely persuasive. The ability of the pro-gun lobby to elicit letters from its constituency is phenomenal. The fear of becoming a target singled out for political retribution also serves as a major deterrent against bucking the parochial interests of the pro-gun forces.

The pro-gun lobby has also effectively used the media to misrepresent the gun control issue and play to fears about race, governmental domination and subversion.

The highly emotional argument most frequently echoed by the pro-gun constituency is the claim to a constitutional “right” to bear arms. This claim is often made in ignorance of the numerous Supreme Court decisions which have consistently held that the Second Amendment to the Constitution refers not to an individual right to bear arms but rather to the right of a state to maintain a well armed militia. The fierce emotional fervor attached to this concern perhaps best illustrates the degree to which the gun lobby has shaped public opinion to serve its goals.

Our uniquely American gun culture has now assumed a tone of immediacy in reaction to the sharp growth in the nation's crime rate. Millions of citizens

genuinely fear their neighborhood streets after dark, and their notion of defending ones' self and one's family rather than relying solely on the police, has apparently gained great appeal, despite the proven impracticality and ineffectuality of such efforts.

There are now approximately 40 million privately owned handguns and an additional 2.5 million enter circulation each year. Yet, we find ourselves lending legitimacy to gun control proposals which we know will not address the full scope of our handgun problem.

Legislation which would ban the "Saturday Night Special" or mandate registration and licensing are measures which have extremely limited application. Much like the emasculated Gun Control Act of 1968, these provisions will have little impact on the numbers of deaths and injuries by handguns each year.

This is particularly true of the "Saturday Night Special" legislation now being considered by this Subcommittee. In addition to the difficulties encountered in finding a definition for "Saturday Night Specials" which is not easily circumvented by the manufacturer, a wealth of documentary evidence indicates that only a small percentage of violent crimes are committed with these cheap, poorly manufactured handguns.

Studies conducted by the New York City Police Department have determined that less than 30 percent of the firearms seized from arrested perpetrators were "Saturday Night Specials". Another study by the same source reports that within a fifteen day period seven police officers were killed with handguns. None of the handguns used in these crimes were identified as "Specials". This same study emphasized that while "Saturday Night Specials" are an important part of the handgun problem, eliminating them would not come close to fully eradicating the problem. In fact, I would suggest that "Saturday Night Special" legislation might in some ways prove counter-productive.

It has become apparent that the major handgun manufacturers in this country quietly support banning the "Special." This is not totally unexpected since such a measure would eliminate existing competition from roughly 300 small manufacturers. The top ten manufacturers would then be free to totally monopolize the handgun market and as a result, be financially capable of marketing what are now expensive revolvers and pistols for considerably less. I am firmly convinced that the passage of "Saturday Night Special" legislation would not only fail to reduce the alarming amount of violent crime presently being committed, but would also play into the hands of the major gun manufacturers who share perhaps the greatest responsibility for the maintenance and cultivation of this country's obsession with guns.

Although licensing and registration measures provide a more logical, enforceable alternative to "Saturday Night Specials" legislation, they too are similarly lacking in scope. Legislation of this nature would require that each gun be registered and that each owner be licensed after the completion of a thorough police check. These provisions would of course restrict the availability of handguns to those who are theoretically responsible lawabiding citizens. It has been amply demonstrated, however, that accidents or "crimes of passion" between people who are either related or acquainted account for approximately 73% of handgun deaths yearly. Licensing and registration legislation is, in the final analysis, another inadequate measure which has gained legitimacy in our avoidance of the difficult but necessary solution.

Former Attorney General Ramsey Clark in his book "Crime in America" stated the case well when he wrote:

"If government is incapable of keeping guns from the potential criminal while permitting them to law-abiding citizens then perhaps government is inadequate to the times. The only alternative is to remove guns from the American scene."

I strongly urge the Subcommittee to avoid proposals which do not go to the heart of the problem and follow the responsible precedent set by other nations by imposing a total ban on the private possession of all handguns.

Tokyo, a city of ten million had three handgun murders in 1973, as compared to New York City which had 800 murders committed by handguns in the same year—a rate which is 266 times that of Tokyo. In England and Wales, with a combined population of 50 million, there were 35 murders committed with firearms compared to 13,072 murders committed in the United States.

I have proposed legislation which would eliminate the handgun from the home and the streets by prohibiting the sale, manufacture and possession of the weapons.

In recognition of the limited legitimate uses of handguns, my bill, the Handgun Control Act of 1975, provides exception to pistol clubs, antique collectors, peace officers, and licensed security guards. The bill also provides for a six month amnesty period in which the owners of handguns could turn in their weapons to the local police for its fair market value.

In conclusion, Mr. Chairman, I would like to suggest that our collective efforts to limit the domestic arms race may be misdirected. Perhaps greater emphasis and attention should be directed to the \$1.5 billion industry which profits from the proliferation of handguns rather than the individual gun owner who is merely reacting to an environment riddled with fear.

As I noted earlier, the major gun manufacturers play a primary role in fostering the gun mania that pervades this country today. This profitable industry is the financial mainstay of the National Rifle Association and its many constituent organizations. The industry's money also goes directly into the coffers of sympathetic politicians.

It seems to me that there is some legitimacy to the notion that the industry should be held in some way accountable for the violence and senseless deaths caused by the destructive tools they manufacture.

In the weeks ahead, I intend to explore the legal possibility of extending the chain of responsibility for violent crimes to the manufacturer. I likewise urge this Subcommittee to explore the potential for the development of legislation which would address the gun control issue in this manner. I am convinced that as long as handgun manufacturers are permitted to market their weapons, violence will continue to be a way of life in America.

Mr. HARRINGTON. There has been an increasing awareness fostered by very visible components of the political structure in this country, most recently Attorney General Levi, all of whom are beginning to appreciate, perceive, and to a degree address the dimensions of the problem presented by the gun culture which we have tolerated, for reasons which are perhaps best explained by psychologists rather than Congressmen.

I am concerned with what appears to be the most promising season we have seen out of the trauma and the tragedy developed over the last generation, that we take full advantage of that heightened awareness in the course of this season and in the course of the forum provided by your own substantial interest in the field. And I am hopeful that whatever may emerge from the efforts which have been ongoing since the beginning of this Congress, that the tendency to go in the direction of the appearance of action, which is something that the Congress institutionally specializes in, will be avoided to the degree that we can address some of the very substantive problems that I still think remain below the surface.

A great deal of expectation has been generated by the hope that if something dealing with the cheaper version handgun can be the net result of congressional activity during the season that it will be a start.

I am not sure that I share the majority of views that such legislative action would constitute a start, and perhaps not an exercise in delusion, and to a degree an avoidance, if that is where the effort ends during the course of the 94th Congress. Much of my concern, and much of the data that would document the growing evidence of handguns as the component part of the homicide rate in this country, has already been developed by both your committee and by witnesses that preceded me.

What I hope might be done with the superior resources we have, and the collective efforts of those that are concerned is to go back further in that chain. In addition to appreciating the very real fear that exists on the part of a segment of this country that do not hold

cards of the National Rifle Association, that do not consider themselves members of other types of efforts that are directed toward not having this law changed, that runs essentially to a concern that out of a government that increasingly has been the object of distrust, will come as a net result of any success in this field, a chance to impose a degree of control over society which these people in their belief and their perception of things feel is a likely end result of where we have been going in recent years. I do not share that fear, but I think it is one that is legitimate enough in a number of ways to have the committee address itself to it.

The other area I am most concerned about, and one that I think has escaped substantial attention is one that I frankly still find myself fallow when it comes to ideas about attempting to go to I think a far more appreciated area of this whole subject, the manufacturing end of the spectrum, where we have a number of people who are in the business, and very successfully for the most part, and make a great deal of money as a result of the activity which has seen a proliferation of the small weapons industry in this country, many of whom, ironically, are located in my own region, Massachusetts and Connecticut. I think the hand-gun manufacturers are far less sympathetic as would be subjects of committee and political concern, than the vast constituency of individual gun owners. I refer specifically to the question of attempting to impose liability on the manufacturer in some fashion by broadening the area of the law which already exists, or attempting to learn a great deal more about the nature and the makeup of this industry as it uses its economic leverage to bring about desired results of nonaction on the part of the political process. I think it may provide far more fruitful direction to this committee's consideration during the course of this session, and perhaps the efforts either at dealing with cheaper handguns or the registration process or any one of a number of other things, all of which are useful in themselves.

However, while I do not want to denigrate for a moment those efforts, we cannot afford to lose sight, of information provided by the Alcohol, Tobacco, and Firearms Branch of the Treasury, or information developed independent of that indicate that a far greater proportion of the deaths that occur are occurring with weapons that do not meet the category of the cheaper, inexpensive models which are the subject of expectation this year. And I think it might be useful as a means of political strategy to both avoid that rather narrow address to the issue, and also avoid getting into what may very well be a contest with very well organized millions of people, looking at the demonstrable record in letter writing, lobbying, and political activity in the past, and begin to try to address ourselves to the finite, and as I have said, the far less sympathetic end of the process that engages in the manufacture, or the import of component parts. And whatever may come out of this might very well reflect both in terms of the good politics of it and the recognition that eventually this is an area that we would have to inevitably get that look at and question the beginning of this chain, whether domestic in origin or foreign in origin.

So this morning I come really to say that I hope over the course of your deliberation and the developed interest on the part of the people that are here, we can broaden the concern to go back to that part of

the chain, and we can begin to think in terms of either the development of theory legally, or other solutions which will involve us in getting at the gun manufacturing industry in this country, and not attempt to address that far more difficult political and numerical end, the actual owner and possessor of the gun, who we have usually had at the cutting edge in a negative way in the course of an effort like this.

Mr. CONYERS. Would you indulge in an interruption?

Mr. HARRINGTON. Well, that is really the conclusion, Mr. Chairman, and I will certainly indulge an interruption.

Mr. CONYERS. Thank you. While I cannot reach a conclusion at this time, when I get both my friends here I want to clarify the issue so that we can get right into it. Let me put it this way. You suggest that it might be more productive to focus on banning or controlling the manufacture of guns than to try for a law that would control the distribution of guns and thereby run the risk of another onslaught by the traditional gun lobbyists. In effect, you are saying, control the problem at its source.

This is not like the drug problem where illegal, mysterious sources are spreading poison in our society. These are licensed, legitimate business activities that are spawning weapons of destruction at the rate of at least 2½ million per year. My perception so far is that we have an increasing rate of weapons being introduced annually into our society, and the question is how to turn that phenomenon around, how to reduce the availability of weapons. Until we begin to deal with that, everything else—to me—is secondary.

We sent out—feeling much the same as you—a letter to the handgun manufacturers which I want you to look at. Question 11 asks:

Annually for each of the fiscal years of 1968 through 1974 the net profits from the sale of each caliber and type of handgun manufactured, imported or assembled by your firm.

And another question asks:

Annually for each of the fiscal years 1968 through 1974 the names and addresses of the major distributors and/or dealers, the number, caliber and type of handguns manufactured, imported or assembled by your firm which each major dealer purchased directly from your firm.

We have had five responses and at least one company has indicated that it would answer in the near future. This letter has gone out to 34 manufacturers around the country.

Now, first of all, the Alcohol, Firearms and Tobacco unit that is charged with the administration of the 1968 Gun Act, which was the first major law since 1938 on the subject of firearms and the major law in the 20th century on the subject suggests that there has not been much Federal concern about the gun problem. It was not until the thirties that we got into the crime picture, its interstate ramifications and the expansion of FBI jurisdiction. If we could develop ATF which is only really a handful of people supposedly coordinating this problem, and if we could close the wide and obvious loopholes in the 1968 Gun Act we would go a long way, in my judgment, toward solving our present problem.

We might want to consider applying to domestic guns the factoring criteria, which now keep out cheap foreign handguns and notice that I did not use the phrase Saturday night special—and we might consider the Federal licensing of all handgun purchasers, the registration

of all handguns and recording of subsequent sales. As we all know now, these records are not now centralized, and further, on second hand sales there is no requirement for recordkeeping.

There are other approaches to the problem, like the Harrington-Dellums-Bingham approach of barring manufacture, sale and possession. We have the Mikva approach, with others, of abandoning manufacture and sale, but allowing present possession. We have the consideration of the taxing power, and finally, the observation in your statement that frequently when we legislate, we are not legislating effectively. I have begun to feel the weight of trying to raise this question in a responsible way, to crystalize what ought to be done, and then try to get accomplished legislatively as much as we can.

I was glad that I was able to interrupt you, because I wanted both you and Congressman Dellums to catch that to better understand my position so we can make this an even more meaningful hearing.

Mr. HARRINGTON. I certainly could not add anything in terms of the scope of your conclusion and general sympathy for the position you have described any more to what my hope might be. I just would really not want to contribute to the building of an illusion when it comes to either what we might do on the House side, or what might be done on the Senate side that will not really go of necessity to the very many core problems that I do not think in many quarters are yet shared. But, I do not have anything further to add, Mr. Chairman. Mr. Dellums has been patient, and I do not really want to intrude on his time any further.

I would hope that we could cooperate to any extent with your committee on any information developed in the past from the Alcohol, Tobacco and Firearms, or any efforts that might be useful in dealing with the manufacturing side which may be helpful to what you already have.

Mr. CONYERS. Well, thank you very much. I count you as one of our friends and strongest supporters in the effort that this subcommittee has undertaken.

I would like now to ask Congressman Dellums to join us. He is one of my closest associates in the Congress, a man whom I have come to respect for his forceful and clear articulation of the problems that we have been confronted with.

He serves in the Congress on the Armed Services Committee where his concerns with peace and justice, and his opposition to the war have brought him distinction. And of course, he is on the District of Columbia Committee, and more recently was appointed to the Select Committee on Intelligence.

Ron, we welcome you before this subcommittee. We know of the disturbing loss of a relative that touched all of your friends, not only in the Congress but across the Nation, and we are very pleased to have your statement.

TESTIMONY OF HON. RONALD V. DELLUMS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. DELLUMS. Thank you, Mr. Chairman. I am deeply appreciative of your kind and generous remarks.

I do have a statement put together that I think is succinct I would like to present that statement and then answer any questions you may have.

Mr. CONYERS. Please do.

Mr. DELLUMS. Mr. Chairman, members of the subcommittee, I am pleased to be here this morning to emphasize the need for strong national legislation to control guns. I believe that stringent Federal arms control is extremely important to the safety of our citizenry.

We are all aware of the increasing role that guns, as tools of violence, play in our society. The annual sale of guns is approximately 2 million with approximately 34 million handguns in private hands in 1973, and I think that figure in 1975 was somewhere closer to 40 million but needless to say, it is substantially higher today. Handguns, in comparison to long guns, are involved in an extraordinarily disproportionate number of homicides, assaults, and armed robberies, with the percentage, in fact, increasing.

Statistics on the use of handguns in crimes are too compelling to ignore. In 1971, more Americans were shot to death on our streets than on the battlefields of South Vietnam. In 1973, 63 percent of the Nation's homicides were committed with firearms: 53 percent of these firearms were handguns. Firearms were used in 26 percent of all serious assaults; 63 percent of all armed robberies were assisted with guns.

Yet, the United States is the only Western Nation with no strict national handgun controls. Another very startling statistic is that among young black males between the ages of 15 and 35, the No. 1 cause of death is murder, primarily by handguns. Approximately 70 people in America die every single day as a result of firearms. Three people per hour are killed with firearm weapons. If this hearing goes to 12 noon, six people in America will have died as a result of insane violence—insanity and violence through the use of handguns.

Yet, the United States is the only Western Nation with no strict national handgun controls. As a result, our homicide rate is 20 times greater than that of Denmark, and 54 times greater than that of Great Britain, both nations where gun controls are firm and protective.

Crime and gun control are inseparable. Our States must also become inseparable with a unified gun control law to achieve our goal of a safe and peaceful Nation. There are more than 20,000 conflicting and confusing gun control laws throughout the country. In addition to State laws, there are frequently local ordinances also governing handguns.

The 1968 act allows illegal gun-running operations to move across State lines. Until the Nation unifies under one gun control law to bring an end to the tragic accidents and deaths of the people, such conditions will remain.

Last year the Intelligence Division of the New York City police traced 1,800 handguns used in crimes in New York and found more than half came from Southern States. Though States with toughest gun laws have lower crime rates, overall national crime rates continue to soar. Weapons are fired through the multiple loopholes in the 1968 act. I deplore the easy access of guns to anyone who meets the liberal 1968 requirements. These requirements include a minimum age limit

and a sworn statement of legitimacy for wanting to own the weapon. No fingerprints or identification check is made by local or State police.

The so-called Saturday Night Specials, banned by the 1968 act, can be and are made domestically. This weapon has no conceivable sporting purpose whatsoever. In 1970 alone, 1 million of these specials were assembled and sold.

Today, people can resell their guns to anyone, with no regulations controlling the transactions. Thus, present laws are as good as no laws at all. My bill, H.R. 354, is the strongest and perhaps most straightforward legislation on gun control for this Congress. I believe it is a solid, realistic bill, and I foresee no difficulties in its administration.

Briefly Mr. Chairman, my bill calls for three things: (1) mandatory registration of all firearms, including complete identification of the buyer, the dealer, and the weapon; (2) establishment of a system whereby all citizens must have a permit to hold a firearm; and (3) establishment of a program which would result in the confiscation of all handguns except for specified exceptions.

Gun buffs who claim that "it's not the gun that kills but the man behind it", luckily must never reach the irrational point of anger. In the heat of passion, even law-abiding citizens have been known to destroy with firearms—when available. A 1973 study made in Cleveland found that a firearm bought to protect a family is six times more likely to be used to kill a family member or friend. In 1972, 73 percent of all murders were committed by impulsive law-abiding citizens.

I would like for a moment to divert from my testimony to read briefly from an editorial from the Chicago Sun Times. It was recently published by Bob Cromie and it is entitled, "Handgun Control, a Tragic Lesson." It reads in part:

[The news item follows:]

[Chicago Tribune, November 4, 1972¹]

HANDGUN CONTROL: A TRAGIC LESSON

There was a curious line in the recent mailing by a group of concerned gun-lovers who are opposing the reelection of Rep. Abner J. Mikva because of his stand for strong handgun control:

"We need [the support of] every man and woman who has ever owned and enjoyed a firearm."

While I was pondering the implications of this—since the appeal is broad enough to include armed robbers, murderers, random snipers, and others who use guns illegally—a copy of the Detroit Free Press arrived. It carried a tragic and moving interview with a member of the National Rifle Association who had just been sentenced to a three to five-year prison term on a manslaughter charge for killing his wife with a handgun—the very type of weapon Mike seeks to legislate against.

BEGAN WITH ARGUMENT

The man's name is Herbert Claude Ellison. He is 36 years old, a Shriner, an outdoorsman, a real estate salesman and—you probably would have agreed prior to last June 15—a model citizen.

But that night Ellison sat on the bed beside his wife, Anna Sue, 34, as they argued heatedly over the fact that he had come home late. He had been drinking and his loaded .38—a Christmas present from his wife four years before—was on a table within reach. The argument grew fiercer and she slapped him. He picked up the gun. She taunted him for not having the nerve to use it.

¹ Date of article questioned May 23, 1975 or June 25, 1975. Mr. O. Garja of Congressman Dellum's office stated the article appeared the June 25, 1975 in the November 4, 1972 issue of the Chicago Tribune.

"She grabbed my hand and it went off," a sobbing Ellison later testified. "And I said, 'Susie, we got to stop this before somebody gets hurt . . .'" Mrs. Ellison said nothing. She had been shot thru the head.

Later, in the interview, Ellison—handcuffed to his chair—explained that he was a member of the National Rifle Association and has always opposed gun control.

"I always believed that if you wanted one, you ought to be able to have it," he said. "But as I sit in this position today, I'm taking second thoughts on it, because—ah, who knows—you know, in a moment of anger, you know, you don't think * * *

"No, I'm going to have to say I totally disapprove of handguns. I know at one time I thought it was your right, which a lot of people still believe, you know, but if they were right here in this chair where I am now, I believe they'd have a different outlook on it. If there hadn't been a gun there, this wouldn't have happened. It's that simple."

JUDGE'S EVALUATION

Circuit Judge Victor J. Baum of Wayne County, Mich., commented on the case after passing sentence:

"This * * * is a tragic pattern that has become all too common with the vast increase in handguns in our community. There is a moment of rage. Without the drinking, the impulse to kill would be suppressed. Without the handgun, there would be an assault, but not a homicide.

"* * * Many ordinary, noncriminal types are killing their wives, husbands, families, and friends."

Dr. Emanuel Tanay, a Detroit psychiatrist, who has talked with more than 200 killers, said most of the crimes were "unplanned, irrational outbursts of aggression, usually against loved ones or friends."

Ellison, asked why he had the gun said he had some neighbors who used marijuana and the gun made him "feel better."

He also said, "We had our home, our children, and things were real good for us. Now, here I am looking at the future, what future there is. I still have the children and I don't have my wife."

Mikva, a Democrat, is running in the 10th District.

Mr. CONYERS. Without objection, we will include that news item in the record at this point with your remarks.

Mr. DELLUMS. Thank you, Mr. Chairman.

The assumption that arms control will inevitably lead to "people control" is an absurd threat by those persons who strangely believe they can stop army tanks with a handgun, or that hunters were given constitutional protection for their sport.

The firearm is nothing but a means of destruction and cannot be justified as anything else. I urge the passage of the strongest possible gun control legislation by this Congress immediately.

I would also like to add a few personal words about the urgency of this legislation.

My nephew, 17 years of age, was shot and killed recently in Oakland in a very senseless shooting, in a very absurd and insane robbery. I know now—in ways I could not have before—the pain and the distress caused by these outbreaks of violence, violence absolutely not necessary.

I cannot, within the framework of this forum, adequately express the pain that I feel, and the pain that my family feels. I would simply like to share these thoughts.

I hope that no one on this committee or in this room will have to feel the pain or suffer the tragedy of a loved one being shot and killed in a senseless robbery. I realize there are many complicated reasons why these kinds of tragedies happen to bright, young, courageous people, who are simply trying to make their way in a very desperate and sometimes insane world.

We in this country have given money such an extraordinary value and placed such minimal importance on human life, that it becomes easy to pull the trigger, to erase the life of another human being. I have discussed the issue of gun control for a long time; we have discussed the issue of gun control in this country for a long time; and many of my colleagues, liberal and conservative, radical and non-radical have talked, and overtalked the issue of gun control. But we have done very little about it.

We posture ourselves with the National Rifle Association; we posture ourselves with many other people because we lack the courage to say let's remove the arms buildup that is taking place in this country. I hope no one in this room will have to go home and realize that one of his or her loved ones has been shot to death.

One way, it seems to me, that this may not happen is if this Congress, the 94th Congress, acts now. I challenge you to act on the issue of gun control, I challenge the Speaker, the majority leader and all of the Members of Congress, if they do not do anything else, strike one blow for humanity, strike one blow against insane violence, strike one blow to take the guns and the weapons of death and destruction off the streets of this country. I challenge all of them. I challenge every single Member of Congress to move past the expediency of thoughts of reelection—and of who contributes to what campaign—to ask them on the basis of some reason and some sanity to join with me to make my nephew's struggle for his life mean something.

This Congress has the ability to move past being a debating society in which we posture, where 50.1 percent of our decisions are for the purposes of reelection.

Gun control is critical in this country. The first day we introduced a piece of gun control legislation has long gone and it has never seen the light of day. I hope that no Member will have to feel the pain of a potential loss of a bright, creative young life in his or her own family simply because we lack the courage to stand up on the floor of Congress and pass a piece of legislation to remove these weapons of destruction and death.

It would be a fine day for those young people whose only desire is to live out the balance of their lives.

In conclusion, Mr. Chairman, what our bill does is simply make an effort to prevent the lawless and irresponsible use of firearms by requiring national registration of firearms, by establishing minimal standards for licensing, purchase of and possession of weapons, and to prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns.

I realize that within the framework of the reality of this Congress—and of America as we in this moment presently find ourselves—that perhaps the objective is, No. 1, to stop the ever increasing number of weapons; No. 2, to decrease that given number of weapons; and ultimately, and hopefully at some point to remove all weapons.

All I am suggesting, Mr. Chairman, and members of the committee, is that there has to be a place at which we start. The 1968 legislation is woefully inadequate. I would imagine that there are many different ways to arrive at a solution, but I think that America unfortunately is a very violent Nation, a Nation much too preoccupied with weapons of destruction and death as a way of solving human problems. Our domes-

tic policies are mere images of our foreign policy, and our foreign policies are mere images of our domestic policy. We have arms built up around the world, we have arms built up in this Nation. It comes out of the same mentality of death and destruction as a way of solving human problems.

Even as we sit here our Nation is contemplating again going to war to bring home a ship because we lack the maturity and the capability to enter into nonhostile, nonviolent, nonwarlike communications with another nation. We find it just as difficult to communicate with each other.

I know that there are many reasons why people are killed in this country, but there is certainly one place that we can start to try to end that madness of people being killed with handguns, and that is to pass the most stringent and realistic and strong piece of legislation to remove the weapons of destruction from our streets.

And with that, Mr. Chairman, I conclude my remarks.

MR. CONYERS. Well, that was a predictably powerful statement from you, Ron, and I am very honored that you would come before the subcommittee and share these views with us.

Now, you and I have been talking, especially since the death in your family, and both our schedules have precluded it, but this is as good a place as any for you and I to rap. We do not care about public or private circumstances. The things we say are just as meaningful to ourselves on or off the record.

But, I remember that I saw you when you had returned from the funeral in California and you said to me in the cloak room that I want to sit down with you, John, right away, and let's talk about this whole gun thing, because we have really got to get it together. And I said well, I know that you would be saying that, and let's do it. Of course, the days and weeks have worn by, and out of our schedules we have not been able to do it.

But, I have noticed several things that are important to me. One is that we must decrease the avalanche of weapons that is literally drowning this Nation. There is no way we can get a handle on the gun problem until there is a cut in the rate of production. Production has been rising steadily.

Two, I think it is important—especially because of our connection with this matter—that we do not do what too frequently happens around here, and which really happened in the 1968 Gun Act; we passed a gun bill that was riddled with loopholes. It did not even honestly speak to the entire question of cutting off the foreign imports, because it left a provision that parts could be imported and then assembled inside of the United States. So, frequently, the whole act of assembly was merely dropping the spring into the frame mechanism in the United States, and you just had a circumvention of a law that was to preclude cheap handguns from coming in in the first place.

The Government has facilitated millions of sales over the past years in handguns. We have encouraged it through our foreign treaties. We end up by selling back surplus NATO arms, and as you have studied the military situation, you know, to domestic wholesalers and dealers who end up reintroducing guns that were originally slated for military activity but have been superseded by our generosity through the Department of Defense budgeteering to guns that are reintroduced, ironi-

cally, back into our own country and used in the streets in citizen versus citizen.

I would like to avoid being caught helplessly between the two extremes. We want to do something that is not hypocritical, and yet we must take notice of the fact that there are very few Members of this Congress in either party—in the Senate or in the House—that will be found to come forward to support the complete abolition of handguns as you have proposed. That is a proposition, incidentally, which I think can stand on its own merits and resist thoughtful examination.

So the question that I pose to you is that assuming, and I think it is not unfair, that we are not going to be able to get through a bill of this nature, where then in this legislation I just outlined should we put our efforts? Let me review them and whatever you might want to recommend would be meaningful. There is the Bureau of Alcohol, Tobacco and Firearms to administer the Federal Law. In terms of its manpower and in terms of its will, both seem to be fairly obviously lacking.

Second, close the existing loopholes that are so visible in the 1968 gun law and begin to apply some kind of factoring criteria or standards to domestic guns, assuming they cannot be totally curtailed, or begin to federally license all handgun purchases, and next require the registration of all handguns and subsequent sales from the original owner.

Of course, the two top things are to ban the manufacture and sale of all handguns. That is the assumption that I began this discussion with, that we probably cannot reach. And finally, perhaps then there is the taxing power that we might be able to use in a much stronger way than it has been used in the past.

Where do you see us landing on these assortment of possibilities in terms of accomplishing our objective?

Mr. DELLUMS. Thank you, Mr. Chairman. I would say first that it seems to me the most minimal thing that this committee should do certainly is to strengthen the administration and the enforcement of existing laws. There is just no question. I think that it is very, very ludicrous for the Congress of the United States to enact a piece of legislation, to be signed into law by the President of the United States, and then find that we are woefully inadequate in our ability to administer those laws. You and I worked together on a set of hearings which were entitled "Governmental Lawlessness" where we pointed out statistically the number of laws that are not effectively nor adequately, nor sometimes even administered at all. So I would say No. 1, at a bare minimum, we have to strengthen the administrative capability to enforce the laws that we have.

No. 2, I think that it is also a minimal requirement that we rethink the 1968 act now that we have some experience with it, and move forcefully to close all of those loopholes. I think those two things are a bare minimum.

And it would seem to me that it would be very difficult for Members of Congress to argue against those two steps—the strengthening of the enforcement of the existing laws and the closing of the loopholes where we have dramatic evidence to sustain the fact that there are serious loopholes in the 1968 act.

Now, with respect to the development of standards, licensing procedures and the registration of weapons, I think that these things are

very critical and important. They should also be contained in a piece of legislation. I think the issue of registration and the issue of licensing, and the issue of establishing standards is our responsibility, and I think it should be done.

And so those five suggestions should be embodied in any action that this subcommittee and this committee, and this House of Representatives engages in.

I realize that the issue of banning the sale and manufacture of handguns is an extremely political issue, because our Nation is preoccupied with money, and that is an economic consideration. And many politicians are motivated by the issues of economics, not issues of morality and a sense of justice and humanity.

But this is 1975, and we as a Nation are learning every single day that we must begin to solve the myriad of human problems in this country. It would seem to me that we can, and we should be able to remove the economic argument. And I would certainly be willing to support such legislation.

When we move into an area such as the manufacture of handguns and pass legislation that would immediately preclude the ability of people to earn a living making guns, it would seem to me that we ought to be able to use their ability to manufacture something else to make a living.

Mr. CONYERS. Something nonmilitary?

Mr. DELLUMS. Nonmilitary. This country must at some point begin to face the issue of reconversion away from a society predicated upon violence and move toward a set of economics based on the notion of humanity and peace. I do not think it would cost an extraordinary amount of money to build in a program that would move gun manufacturers to manufacturing something else. We have cities in America that are monuments to our madness and not our genius. We can use the skills of a manufacturer to help us rebuild American cities.

We are desperately in need of mass transit. Our highways and our freeways are carriers of cars that are polluting us to death. We could use the technological skills of people who are capable of manufacturing things, for it seems to me that if you can use a lathe to make a weapon, you can use a lathe to make something else. So I think we can do this. We spend billions and billions of dollars doing many, many things that some of us would agree are very useless. It would seem to me if we are saying we would like to ban handgun manufacture, I would be more than willing on the basis of fairness, and justice, and equity to build into that legislation some mechanism by which we use those skills to reconvert into some nonviolent, peace-oriented project that would allow those persons presently in the business of making a living through the use of developing weapons to make a living without playing on the fears, the anxieties and the emotions of millions of people in this country.

Mr. CONYERS. I thank you for that response. And I look forward to our continued working on the problem.

I must observe before yielding to any of my colleagues that there has been a lot of talk about gun control in the past, but there has been very little done about it. As we search the legislative records, we see that it was more rhetoric than anything else, and I hope that this will be a meaningful departure. We must begin to move forward, and I appreciate deeply your coming before the subcommittee.

I would yield now to the ranking minority member of this committee, the gentleman from Illinois, Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

I am sorry that I was not here for the oral testimony. I have had occasion to examine your written statement and to have a summary of the legislation that you are most interested in, Mr. Dellums. And some of the areas that you have touched upon, particularly in the area of registration of handguns, would have a special appeal to me, and it would seem to me help close up an important loophole in the 1968 Gun Control Act.

Your testimony is interesting, and it expresses very emphatically a point of view, I think, in analyzing what is possible to accomplish in this Congress, and at the same time contribute to the reduction of crime, crimes that are committed with handguns, crimes of violence, and we should be able to arrive at something that would be acceptable to a majority in the House and the Senate and contribute toward the reduction of crime or the control of crimes through our control of handguns.

I am sorry, as I say, that I have not been here throughout the hearing. I have been necessarily detained in another subcommittee that is considering legislation. But with that, I think I will yield back the balance of my time, Mr. Chairman.

Mr. CONYERS. I recognize and yield now to the gentleman from Ohio, Mr. Ashbrook.

Mr. ASHBROOK. Thank you, Mr. Chairman. I, like Mr. McClory did not hear all of the testimony.

I would say to my colleague I was interested in one statement, however, where I notice you said that the States with the toughest gun laws have lower crime rates and the overall national crime rate continues to soar. Are you saying, Mr. Dellums, that in New York State, for example, it has a lower crime rate than South Carolina? I am wondering what you base that on, what statistics, and where you got it? It seems to me it would be exactly the opposite as to what the case really is. I could be wrong, but I would like to get those statistics.

Mr. DELLUMS. OK. We did develop some statistics. I have a sheet of statistics here and if you are interested in that particular statistic I will make sure that you have it for the record.

But, first just a very general statement. What are we suggesting here, based on the research that we developed for this testimony, it appears that in those States where there are strong gun control laws that the crime rate is lower than in those States where (1) there are either no gun control laws or (2) very minimal gun control laws. In those States where there are no gun control laws, it forces up the entire national average, and that is the point that we are really trying to make.

Mr. ASHBROOK. I find, as so many have said, in Ohio and South Carolina, for example, where we do not have tough gun control laws, that our guns end up going to New York, and I find it, you know, kind of interesting that the States where the guns seem to be the problem such as New York, where they have a gun control law, we have less problems, and obviously everybody in the country has problems, but we have less problems than New York, and I think the record will show that you have less problems I think in South Carolina. And they seem

to be getting the guns from our places where they are not the problems, and the problems seem to crop up more in the areas where they do have gun control. I kind of think it is just exactly the opposite.

Mr. DELLUMS. OK. You see, but that is also the point, that if you read further in our testimony we point out that the intelligence division of the New York Police were able to trace 1,800 handguns used in crimes, and that over half of them came from Southern States. People are still able to transport guns across State lines, and that is precisely the reason why I am suggesting that there needs to be a unified America under one gun control law. We have—approximately 22,000 complicated, confusing and in some ways contradictory gun control laws, and I suggest that we need one. Where there is strong gun control laws, people simply go to other States and get the weapons, and in those States where the crime rates are very high, where you can trace back the source of the guns, and you find that the guns come from those States where the gun control laws are not at all stringent, and that is the precise argument as to why we need one gun control law.

Mr. ASHBROOK. Well, excuse me for disagreeing. Of course, we see differently on this. I fail to see how 1,800 guns coming into New York illegally would be a problem to the other States. If it is illegal in New York to do what they are doing, what would be the difference of having a national law? It would still be illegal for the 1,800 guns to come in, and I think most people believe that the 1,800 guns would still come in.

Mr. DELLUMS. Well, we believe it would make it that much more difficult.

Let us step back for a moment, because I think you and I can use the statistics, but I think it is important for us to talk about what the reality of the situation is. Let us first of all look at another statistic. Seventy people a day die in America every 24 hours as a result of handgun deaths, 3 per hour, shot to death—my nephew being one of them. All right.

How do we end that madness? I am aware of the fact that there are many complicated reasons why someone decides to kill someone else. But when it is that easy for someone to purchase or obtain a weapon—and the statistics point out very clearly that people are more often not killed by a stranger but someone that they know—and if you and I purchase a weapon to protect our home there is a six times greater likelihood that we will kill someone in our own family. Statistics will bear that out.

Mr. ASHBROOK. Of course, I do not think they do. I do not think they do bear it out, but I just wanted the record to show that. It has been repeated time and time again by the witnesses before this committee, but I have failed to see yet where the statistics come from, and I have not really seen any, I have not seen honest appraisal that would show that it is six times more dangerous to have a gun in the home.

Mr. DELLUMS. A husband argues with the wife, the wife argues with the husband, the son or daughter argues with the parent, relatives arguing with relatives, friends arguing with friends over a poker game, over a loan, over who came in too late, who was drunk, and who

was not, who danced with whom at the party—I mean these kinds of things where people often end up being killed.

And also, in the situation that I am most familiar with at this particular point, my nephew, he was a very gentle, peaceful young person earning his way through life. Two young people walked into a MacDonald's hamburger joint and said "give me the money." The manager had already cleared out the money and there was no money here, so they said "where is the safe," and "the safe is over there." And they said "you guys open the safe," and they said "we're simply part-time workers, all we do is give out hamburgers and french fries, and we do not know how to open the safe." They said "get in the car," and took these three young people out and shot one of them to death, shot another one critically and sexually assaulted the third person. That was with a weapon. Where did they get that weapon? They certainly would not have been able to have taken a weapon with them if we had had some registration, some licensing, some kind of law with respect to the issue of how people get guns.

Mr. ASHBROOK. There is registration in the jurisdiction where this happened?

Mr. DELLUMS. They got the guns illegally.

Mr. ASHBROOK. Wait a minute. That was not what you said. You said they would not have been able to get the gun had you had registration and, of course, you make my point. If you have registration—

Mr. DELLUMS. You can get a weapon across State lines; you can get a weapon through mail order sales; there are many ways. Our 1968 law allows someone to buy a weapon from another country, import it, insert one piece and then you have a gun rebuilt in this country. I mean, the laws are absurd. The laws are absurd.

We have legislation which says gun control law and it does not control guns. I am simply asking why in 1975 should you and I be acting as desperate as people acted in the days of the wild west with 40 million handguns? Should we not as a people have evolved intellectually, and emotionally and spiritually to the point where we do not need, or I do not need an equalizer because you outweigh me, and when I get a gun large enough to make me equal, then you get a bigger one to make you more powerful, and then I go out and get a more powerful weapon, and then it goes on ad infinitum. It seems to me that we have evolved as a nation as desperate people running somewhere, to some desperate place, and maybe that place is total oblivion.

Mr. ASHBROOK. I would just say for the record that I do not think that has happened. I think what you are talking about, there is the talk about the statistics of the 40 million handguns in the country, and what percent of the people last year engaged in crime or violated their basic right to peaceably use that firearm? If you are talking about statistics, you are talking about a factor of probably one 1/100th of a percent, a fraction of one 1/100th of a percent are causing that problem, and you cannot say that the Nation is really doing it. So the 99 percent of the people who have firearms, who do not get into that situation, then I think for them it is in a way kind of an affront to say that they are the ones that are causing the problem. The problem comes from those two or three people that you are talking about that come into a MacDonalds hamburger store, who got a gun illegally, and

would get a gun illegally whatever the situation would be, who are bent on criminal actions, terrorizing, abusing, and I honestly do not think it is fair to say that we have become a Nation like that when 99 percent of the people in the country did not misuse their right to have a firearm.

Mr. DELLUMS. Let us look at this FBI statistic for 1972. Twelve thousand homicides. Spouse killing spouse, 12.5 percent of those 12,000 deaths. Homicides. Parent killed child, 2.9 percent. Other family killings, 8.9 percent. Lovers quarrels, 7.1 percent. Arguments among acquaintances, 41.2 percent. Twelve thousand deaths. Now, we can sit here and say well, 90 some odd percent of the American people are good, peace loving people, but when it is your son, your loved one, your nephew, your friend who is one of those statistics then to hell with statistics. Suddenly it become reality of a human life that had a right to flower, and function, and grow and which is terminated prematurely. Why is that? It seems to me that you and I have a responsibility today.

Mr. ASHBROOK. I would feel exactly the same way I guess. The only difference is that I would want the law to apprehend the two or three young people, whoever it was that you were talking about, not to take some action against an inanimate object, the gun. The problem comes from the two or three people that walk in, not from the gun.

I would just say for the record that I would respectfully disagree in some areas. I certainly understand your views and your opinion.

Mr. Chairman, I appreciate the testimony of the gentleman and our friend from California.

Mr. CONYERS. Thank you.

Mr. DELLUMS. Mr. Chairman, would the gentleman allow me just to insert just a couple of other statistics?

Mr. ASHBROOK. Yes. The more statistics we get, the better. You know, we can all use statistics whichever way we want them.

Mr. DELLUMS. I would like to suggest to the gentleman that I am in no way here to manipulate statistics. My presentation is straightforward. I think that we as a Nation are much too reliant on instruments of violence to handle our relations with each other, and that is a very straightforward statement.

Mr. ASHBROOK. Well, one last answer. Let us not go on forever. I as an individual think that we are too reliant on Federal Government action to solve our problems that the Federal Government cannot solve.

Mr. DELLUMS. I want to insert two statistics to point up the argument that we made earlier. The FBI Uniform Crime Report of 1973, which you can document, shows 30 percent of the homicides were within the family unit, 47 percent as a result of arguments.

The Eisenhower Commission of 1968 pointed out—and you can direct counsel to investigate it—that it is four times more likely with a weapon in the home to protect the family that the family member would be killed by another family member. Now, that is a statistic you can research. We do not have to quarrel about it. It is a finding of the Eisenhower Commission, and that certainly is not noted for its radicalism or its demagoguery. It was a very thoughtful, hard working group of people who arrived at that position based on very astute evaluation of facts presented to them.

If they are wrong, then I am wrong. I am simply using data from what I consider to be very reliable sources.

Mr. CONYERS. Thank you. The Chair recognizes the gentleman from New Jersey, Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman. I want to apologize also, Congressman, for not being present when your testimony was given. But I, like other members, had a markup session this morning in another subcommittee.

I have read your statement, however, and I want to commend you, and I just have a couple of short questions. What is it, first of all, Congressman, that you are endeavoring to accomplish by the mandatory registration of all firearms? Is that as an aid to law enforcement, is that what you are thinking in terms of by mandatory registration?

Mr. DELLUMS. Yes, that is one.

Mr. HUGHES. Are you familiar with Alcohol, Tobacco, and Firearms section of the Treasury and the work they do in this area?

Mr. DELLUMS. Yes.

Mr. HUGHES. Is it your feeling perhaps an extension of perhaps that particular law, and closing some of the loopholes would perhaps be the proper vehicle for legislation?

Mr. DELLUMS. Yes. As I indicated to the Chairman, I think that at a very minimum level this committee has a responsibility to strengthen the administration of our existing laws because it seems to me if we enact a law that we ought to certainly be able to rely upon the notion that our administration is effective enough to enforce the laws that we have. And the second part of the minimal effort on the part of this committee is certainly to close all of the loopholes in existing legislation. The 1968 act has glaring loopholes. We have now had, what, 7 years of experience with that law, 6 to 7 years and it seems to me that based on that 6 or 7 years' experience that we ought to be able to close the loopholes in the 1968 act.

I think that those two things are the very, very minimal piece of action or bit of action that this committee ought to take.

Mr. HUGHES. Are you referring primarily to the import of cheap weapons?

Mr. DELLUMS. Yes.

Mr. HUGHES. And parts?

Mr. DELLUMS. Yes.

Mr. HUGHES. And the manner in which now a great of subterfuge has taken place?

Mr. DELLUMS. Precisely.

Mr. HUGHES. Also I am interested in another aspect of your legislation. As I understand it, and correct me if I am wrong, you would have a confiscation of all weapons with just a few exceptions?

Mr. DELLUMS. Yes.

Mr. HUGHES. In other words, what agency would pick up the weapons? Is that something that the Federal Government would do or local departments?

Mr. DELLUMS. Yes, we would have the Federal Government do that within 6 months.

Mr. HUGHES. Let me ask you this, and I really have a great deal of difficulty with confiscation of weapons because then there is a great deal of emotional attachment, and sometimes other than emotional

attachment to the possession of the weapons. We have heard testimony, for instance, that many storekeepers in high crime areas rely desperately upon that weapon, even though perhaps it may not do them a great deal of good, but in the final analysis they believe it would do them a great deal of good. And I am concerned over how we would enforce such a law. I mean, how do you give a guy in the mom and pop store that feels that he does not have adequate police protection, because you cannot have a policeman behind every tree and behind every counter, how do you convince him to turn over a weapon? And the corollary to that, if you cannot get him to turn over the weapon, then are you making felons out of a lot of basically good people?

Mr. DELLUMS. Well, that is obviously a very difficult issue. Let me try to answer you by pointing out that in Denmark and England where there are strong gun control laws, it is interesting that we find a very dramatic reduction in the use of firearms in the prosecution of a crime.

If I am going to rob you, and I would assume that you have a weapon, there is a great likelihood that I would rob you with a weapon. So that if I am armed and you are armed, there is obviously a greater likelihood that one of us will use that weapon, meaning that because of a handful of dollars one of us will lose our lives. I think that there is something very tragic about a society that places a greater premium on \$100 than on a human life.

Now, if I know as a potential robber that you do not have a weapon, there is less likelihood that I will come in with a weapon, less likelihood that I would be one of those young teenagers, or in my young, early twenties, one of those trigger-happy people who are frightened to death at the robbery, and if you make a wrong move, I fire. It would seem to me if we start to reduce the levels of guns in our society we then reduce the reliance on the notion that we need to have a weapon as an equalizer.

That is the days of the old West. And it would seem to me that we do not have to go into the 21st century with a stone age mentality. At some point you have got to start, and I realize in the process of starting down the road toward a progressive new view that there are some risks involved. I do not know how to overcome that. I would probably be the greatest psychologist in the world if I could answer the question of how we reduce the element of risk to the level of zero. And I do not have that ability.

I just believe that we have to start down that road somewhere, and that is all we are trying to suggest in this legislation.

Mr. HUGHES. I think your goals are everybody's goals. The only question is how we arrive at them, and I think your observation about the history of this country is extremely important. Our infrastructure is much different than that of many other countries, and our problems are different. The manner in which our people view weapons, and how they attach constitutional significance to that possession of those weapons is something that this committee is going to have to address.

There was a time when the horse and carriage did not present a problem to the streets or to people, but then there came a time when there was congestion, and then with the advent of the high velocity automobiles, automobiles than moved into the 80-mile-an-hour range, we had to get in some licensing procedures with regard to automobiles. And even though there is not a complete parallel between the two, I think

there is something to be learned by that experience. And it seems to me that we have got to reach some type of an accommodation. And I am not sure that confiscation of weapons is the way we reach it.

I am satisfied that if we have got to start drawing up the weapons in the hands of people that have no legitimate reason to hold them, then we also have to guarantee to those people who are law abiding citizens, and who have legitimate desires to hold weapons the right to do so. And I think that somewhere along the line we have to reach an accommodation, and perhaps it is in the area of new weapons. For every 50,000 weapons that the police pick up every year there is another 60 or 70,000 that come back into the marketplace in the wrong area, and perhaps it is there that we ought to be looking toward some restrictions on new purchasers to make sure that those that have mental infirmities, those that are not mature enough to hold weapons, those that have past criminal histories and are not able to easily receive the weapons that they have been able to receive.

And perhaps there is one area that we can look to for some type of regulation.

I think your point about registration is extremely important, particularly for those in law enforcement that often have difficulty in trying to trace weapons and ownership, and trying to trace the chain of custody so necessary in a criminal trial. So I want to thank you for your testimony, because I think some of the points you raise are important ones, and I am sure that this committee will be addressing them.

Mr. DELLUMS. Thank you.

Mr. HUGHES. And I yield back the balance of my time, Mr. Chairman.

Mr. DELLUMS. I realize the political realities and the perceptions that you and I have to operate under. I would think that certainly we have to stop the rapid increase. I think the chairman pointed up that we are now increasing the inventory of weapons by approximately 2½ million per year. So, at a minimum, we need to stop that.

Then it seems to me that the second level is to decrease the number we have of approximately 40 million handguns now in the hands of people all over America. Redress that, and maybe ultimately you and I will find ourselves coming together at a moment when the perceptions, the values, the morals and the ethics of our Nation are such that we can totally remove firearms, and the dependence on those firearms. Let us at least stop the increase of 2½ million per year, and at some point move toward decreasing the 40 million handguns, and maybe some day we can remove them all, and all of us can live in a world of peace where we are not overly concerned about the conspiracy theory that one group of us are going to pounce on another group of us, so that we can live in a world as human beings and go about the business of living life, which I think is the reason that we are all down here in the first place.

Mr. CONYERS. Congressman Dellums, you have put us in a perspective that I think takes us out of the mundane immediate legislative consequences, and for that I think the committee is going to be much more equipped to deal with this problem and all of the ramifications as you have so beautifully laid them out.

Mr. DELLUMS. Thank you, Mr. Chairman, and members of the committee. You have been generous of your time, and I am deeply appreciative of your questions and appreciate your remarks.

Mr. HUGHES. Thank you.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
May 14, 1975.

Hon. JOHN CONYERS,
Chairman, House Judiciary Subcommittee on Crime, 2137 Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The following is a list of sources cited in my testimony before your committee this morning. I have also attached the Chicago Sun-Times article requested for insertion in the record.

"In 1973, 63 percent of the nation's homicides were committed with firearms; 53 percent of these firearms were handguns. Firearms were used in 26 percent of all serious assaults; 63 percent of all armed robberies were assisted with guns."

Source.—F.B.I. Uniform Crime Reports for the United States. Released September 6, 1974.

"A gun is four times more likely to kill a family member or friend."

Source.—Eisenhower Commission on the Causes and Prevention of Violence, 1968.

"Our homicide rate is 20 times greater than that of Denmark, and 54 times greater than that of Great Britain * * *" "A 1973 study made in Cleveland found that a firearm bought to protect a family is six times more likely to be used to kill a family member or friend." "In 1972, 73 percent of all murders were committed by impulsive law-abiding citizens."

Source.—The Case for Federal Firearms Control, New York City Criminal Justice Coordinating Council, November 1973.

"69 deaths/day: approximately 3/hour."

Source.—John D. Carver, Executive Director, Massachusetts Council on Crime and Correction. Study entitled: "A shooting gallery called America."

If you need any additional information please let me know.

Sincerely,

RONALD V. DELLUMS,
Member of Congress.

Mr. CONYERS. Our next witness will be brought to us by the gentleman from Utah, Mr. McKay. He has with him a person from the county sheriff's department, a detective sergeant, and I note that our colleague serves on the Appropriations Committee and the District of Columbia Committee.

And without creating too much of a pun, I have to put on the record that his first name is Gunn, spelled G-u-n-n, and I do that with reluctance, but it is a real pleasure to welcome you before the committee.

TESTIMONY OF HON. GUNN MCKAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. MCKAY. I guess, Mr. Chairman, there are some things that are wished upon you, not chosen necessarily, although I have never been ashamed of the name, and it is at least distinctive.

Mr. Chairman, I appreciate appearing before your committee to introduce a gentleman from my district who is involved in law enforcement.

But before I do, I would like to make just a couple of comments.

Mr. CONYERS. Please do.

Mr. MCKAY. Having come out of the West, so to speak, the heart of the West in the Rocky Mountain region where guns have a particular image, and where history is unique in the winning of the

West, so to speak, and I think that image has been overplayed to its reality—

Mr. CONYERS. I am glad to hear you say that.

Mr. McKAY. I think in the West not everyone had a gun on their hip. They had very functional uses with the cattle people, and there were those who used them rampantly, I am sure. But aside from that, they were used to protect their animals, and their families against the cougar, for hunting, for meat, and for other things of that nature.

I think there is a trauma going on in the West on two sides. One is the heritage they have known, those who have great admiration and affinity to the wildlife, hunting, and fishing, which is very predominant in the West, and those who have just become accustomed to the heritage that was handed to them, their grandfather's flintlock, and they are collecting guns and these kinds of things, which are kind of a heritage.

On the other hand, there is grave concern about how we either control, or regulate, or change the psychology of our people, raise up our level of our humanitarian acts as we interact to stop the slaughter of human life. When you hear in the West of a man who bought a gun to protect his child, and that same gun killed his own child, because of whatever reason, the child is still dead.

So, those two conflicting emotions pervade the whole western country, I think, at this time.

I would suspect that the dominant feeling is that they don't want any confiscation, particularly of the hunting weapons. That they do not want. They fear that registration or other things may lead to the old domino theory, if you get this one, the next step is this, and so on, and that is a great fear as to how far they go.

In my own experience as a young man, my father used, had a rifle, an old flintlock, and they herded sheep on the Wasatch front, and cattle, and used it for destroying the predator, the coyote and the cougar, and some of those are down to numbers now where they really are no problem except the coyote. But, in those times they used it, and yet he himself in my lifetime would not allow a weapon in the house. He discouraged my mother from purchasing weapons as Christmas toys, the idea being that to inculcate the attitude of destruction of whatever nature was a non-Christian ethic and, therefore, ought to be discouraged, that the killing of any kind, whether of an animal or human being should be discouraged other than for those very necessary survival conditions.

So, it is with an interesting background that I come before you to introduce the young man here today and we have this great trauma over this in the West. But here is a young man I think who has had some experience. He has been 4 years with the Utah County Sheriff's Department. He comes from the little town of Mapleton, about 2,000 plus people, and yet he is graduated from the National Crime Prevention Institute, the Utah Police Academy, and also the Army Civil Disturbance School. And he is presently finishing his B.S. degree at the Brigham Young University.

Mr. Owen D. Quarnberg, sergeant detective of the Utah Sheriff's Department. I am very pleased now, Mr. Chairman, to turn the time over to him to testify, and I appreciate your inviting him to present his testimony.

Mr. CONYERS. Well, we thank you, Congressman, for that very personal insight into the nature of the problem in other parts of the country, other than those that have the urban concentrations where the gun problem is immediately perceived as the most dangerous.

And we welcome you, Detective Quarnberg. We have your statement, and it is in the record, and you may proceed in your own way.

**TESTIMONY OF OWEN D. QUARNBERG, DETECTIVE SERGEANT,
UTAH COUNTY SHERIFF'S DEPARTMENT**

Mr. QUARNBERG. Thank you, Mr. Chairman. I appreciate the opportunity of appearing before this committee. And I would preface the reading of my statement with the sharing of the feelings of Congressman McKay.

Mr. Chairman and members of the subcommittee. Thank you for the opportunity to appear before your subcommittee and address one of the multiplicity of problems facing American law enforcement.

My name is Owen Quarnberg, detective sergeant for the Utah County Sheriff's Office, Utah County, Utah. My testimony is submitted in behalf of the officers of my department and the law enforcement effort they help to perpetuate.

We commend the efforts of this subcommittee in helping to generate solutions to this Nation's rising crime problem of which we are all too acutely aware.

In the United States there are approximately 74 commercial firearms manufacturers. Each year they produce large numbers of firearms for American markets. Additionally, there are 104 companies abroad, both foreign and American owned, which produce firearms for American markets.

With nearly 300 million people in the United States, we are rapidly approaching a time when the number of firearms privately owned by our citizens, could reach a level where there will be a weapon for each man, woman and child. There is no immediate incentive toward, nor possibility of, a "zero population growth" of firearms. A seemingly insatiable demand by the honest citizen and criminal alike has created a tremendous incentive for thieves to steal firearms. The business is lucrative. We estimate that in our area alone, our citizens have lost some 50,000 dollars' worth of firearms so far this year. Our intelligence indicates that this is not only the random opportunity criminal, but organized thieves as well. Our intelligence also indicates that the groups which deal with the fencing of stolen weapons extends beyond State lines and in fact, extends into our surrounding States. Example: ATF agents working with the Provo Police Department recently arrested an individual with caches of stolen weapons in Utah and Arizona. An investigation revealed that these weapons had been originally stolen in a number of States.

There are essentially three profitable ways for the thieves to dispose of these stolen firearms. The first is for them to sell the firearm directly to another individual, no questions asked. Unless that buyer runs afoul of the police in such a way that ownership of the firearm is questioned, we have very little chance of recovering this class of firearm.

Second, the thieves may either take them out of the State or sell them to a fence who will take them out of State to sell them. Again,

unless the fence or the ultimate buyer is stopped and the weapon checked, there is very little chance of recovery.

Third, the thief may take the firearm to a pawn shop and either pawn it and not redeem the gun or he may sell it outright. In this case we have a much better chance of recovery of the stolen gun.

We have legislation which requires our pawn dealers to submit to us, each week, a copy of all business transactions. As these are received, all information regarding firearms is compiled and sent to our State bureau of criminal identification. They enter the appropriate information in the National Crime Information Center's computer, here in Washington. If the appropriate information matches with that in the computer, it transmits what we call a "hit." When we receive this information, which usually takes about a week, we go to the pawn shop, inform the owner that the gun is stolen, and we pick it up. The computer tells us which police department reported the gun stolen and other information.

Armed with this information we begin an investigation to trace all those who have possessed the firearm since it was stolen. In every case we have investigated this year, the gun turned out not to be stolen.

The time spent by everyone who is involved in processing these reports as well as the computer time makes this a very costly process. It indicates some weakness in our system that could be corrected if we are going to be effective in controlling the flow of illegal and stolen firearms. One help would be to require all dealers of used or secondhand firearms to submit a form to their respective police departments, on a weekly basis, detailing a complete description of the firearm as to manufacturer, model, complete serial number, complete caliber, type—pistol, rifle, or shotgun—along with complete identification information on the person pawning or selling the gun.

One other help would be to require the manufacturers to standardize their serial number assignment methods.

If I may depart from my printed statement and make a commentary and explain what I mean by that. In our own department and departments around our area there is a variety of ways in which weapons are identified for submission of this information, not only for our own records, but for the submission to the national computer in Washington, the FBI computer. We have noticed an attempt on the part of the FBI to standardize this system and get standardized input from the various police agencies. However, up to this time that has not occurred, and the problem that we feel is basically the fact that each gun manufacturer assigns a serial number to his individual weapons on the basis of their own criteria, model, the year of manufacture, the particular serial sequence in which that gun is produced. And we feel that if there were some kind of national effort to get some uniformity there, then the efforts of law enforcement in tracing, recovering stolen weapons, illegal weapons and weapons used in the commission of a serious crime would be greatly simplified.

Also, there needs to be a minimum amount of information which must be submitted to State bureaus of identification by the police agency in order for the stolen firearm to be entered in the computer.

Last, there needs to be some method of getting the citizen to record the complete information on their guns at least in their own files, if not with the police. This last one is of great importance because a

large number of stolen guns do not get entered because the victim does not even know such things as the model, let alone the serial number. Because many are not entered on the computer, when the police come across weapons that no one will claim, there is no way to locate the original owners.

The problem of tracing ownership really becomes critical when we recover a firearm which has been used in a violent crime. Many times locating the original owners would help solve the crime.

I realize that, rather than solving problems, what I have presented may have raised even more questions. I would be happy to try and respond to any questions you may have at this time. Thank you again for the opportunity to come here.

[Appendix A to the statement of Owen Quarnberg follows:]

APPENDIX A

	Weapon type	Serial prefix code
I. Handguns:		
A—Revolver.....	Single action.....	SA
B—Revolver.....	Double action.....	UA
C—Pistol.....	Single shot.....	SS
D—Pistol.....	Automatic.....	AP
II. Rifles:		
A—Bolt action.....		BR
B—Pump.....		PR
C—Lever action.....		LR
D—Automatic.....		AR
III. Shotguns:		
A—Bolt action.....		BS
B—Pump.....		PS
C—Lever action.....		LS
D—Automatic.....		AS

Mr. CONYERS. Well, you have raised some important points, and I would yield now to Mr. Ashbrook of Ohio for some questions.

Mr. ASHBROOK. Thank you Mr. Chairman. I certainly am pleased that our friend and colleague, Congressman McKay, has given us the benefit of his testimony. I think it is among the more practical, on-the-spot observations which can be helpful to us that I have heard in the many days that we have had hearings. And I think that is what we need more of. I think all of us, myself included, have a tendency to engage in emotional arguments of whether we should or whether we shouldn't and often times we forget the more practical problems of all of us who deal with a problem, and I think your testimony was precise, and to the point and had many fine recommendations.

I gather from what you are talking about, it is basically illegal weapons, and I think you started out by referring to weapons that had been stolen, and how they were dispensed or fenced, or disposed of, and basically you are talking about illegal weapons. And I think your only reference to legally possessed weapons was the fact that it would be better for police functioning if the owner of every weapon would at least record the make and serial number, so that if it was stolen then you do have something to feed in the computer. Is that a fairly accurate assessment of your statement?

Mr. QUARNBERG. Yes, sir, that is a fairly accurate analysis.

The problem, however, does go beyond that as far as we are concerned in our police effort, because recovery of stolen weapons for the

owner is just one part of the problem that we feel in this regard. Many of the weapons that we find in our area that are involved in violent crimes, robbery, homicides, we trace back and find, in fact, that they are stolen.

Now, I realize that the problem of getting citizens to record this vital information is very difficult. However, I am sure the committee is aware of the fact that most police departments across the United States now are engaged in a crime prevention effort which also includes urging the citizens of our country to record these kinds of information.

Now, we know, however, that this is not getting done. And the reason that I bring this up in my testimony here today is because we feel that perhaps in a legislative way that we might accomplish this more rapidly than we are doing now. I feel like if we cannot trace weapons, we cannot begin to control those who use them in a violent way.

Mr. ASHBROOK. I guess that is the one thing that I do not quite understand, not being in police work, how the tracing really helps prevent violent crime, because for the most part the tracing comes in after the crime has been committed, or after the weapon has been recovered. I guess I do not see where that is that beneficial as far as the prevention of crime.

Mr. QUARNBERG. Perhaps if I gave you one example of a recent case that we had it might help to clarify what I mean in that regard. We are involved in narcotics efforts as well, and we recently executed a search warrant on a premises for the recovery of a quantity of narcotics. While we were there we came across I think it was 14 or 15 weapons in that home, rifles and handguns. We have a strong belief that most of those weapons were probably stolen weapons.

Now, if we had the information at our disposal, we could recover a lot of those weapons for the citizens to whom they originally belong. Additionally, because in our area as well as other areas of the United States these violent crimes of homicide and robbery are on the increase, and because we find, as police officers, that many times those involved in these crimes also are involved in the drug community, that being able to trace and recover these weapons from those who had them before the commission of these crimes would help us as police officers also to begin to reduce some of these violent acts that the persons are involved in.

Mr. ASHBROOK. Just a last question. On this particular case that you gave where the guns were discovered, was the ownership of the guns at that point the basis for an offense or for a charge, or were they legally in there? Were they legally in their possession at that time?

Mr. QUARNBERG. Well, I am sure they were legally there. The mere possession of weapons is not an offense.

Mr. ASHBROOK. And they were not required to be registered under your State law?

Mr. QUARNBERG. No.

Mr. ASHBROOK. Thank you, Mr. Chairman. Again I really appreciate that type of testimony, and we thank Mr. McKay for making it possible.

Mr. CONYERS. Detective, one question has arisen around your testimony, because it seems to me that you are saying if we recorded, or there was some easy way to find out through weapon identification as

to who had guns and not, this week or 2-week process you have to go through would be shortened. But suppose we had a system in this country where all of the legally purchased guns would have been recorded, that the records would be very easily available to the police departments upon request when you run across 14 or 15 guns. Now, the question occurs would that not facilitate the tracing of weapons that were used in crime, and would it not ultimately reduce the number of people that might be inclined to use weapons in the commission of crime?

Mr. QUARNBERG. I think in answering the question that you raise, Mr. Chairman, I might say that my first inclination is to say "Yes." However, I do that with some reservation, knowing that the committee is considering legislation which would require a national registration of all firearms. And I would hesitate to agree that a national registration of all firearms is the total answer that we see.

Mr. CONYERS. Well, let us separate that legislative question now. I do not want you to be troubled with that, because there is also some legislation to repeal the 1968 gun law. I mean, we have 50 pieces of legislation going in all different ways. And it may be that our legislative product, if there is one, may not even touch on or deal with this question.

But, as a general proposition, if we could identify weapons, if they were clearly identifiable, it would seem to me it would greatly facilitate law enforcement operations.

Mr. QUARNBERG. I am sure that that is the case, if we had available to us the ability to immediately check ownership on weapons that were recovered. That would be of a great help to the police effort.

Mr. CONYERS. And this would be mostly handguns, of course. This is where the great bulk of the illegal activity in the use of weapons takes place.

Mr. QUARNBERG. In Utah, in our area we do not see a great deal of difference in the theft of handguns and in what we call long guns, rifles, and shotguns. I think it is probably just about 50-50, either way.

I suppose that there is probably a reason for that in that out in the West those who would legitimately use guns probably have a tendency more toward shotguns and rifles rather than the acquisition of large quantities of handguns.

Mr. CONYERS. Thank you.

I would like to recognize the gentleman from New Jersey, Mr. Hughes at this point.

Mr. HUGHES. Thank you, Mr. Chairman. And I, too, want to commend Congressman McKay for the very fine introduction and the statement on his personal insight. I found it very interesting and quite helpful.

And Sergeant, I want to congratulate you on your testimony. I have a number of questions that I would like to develop just a little bit on the registration of guns, handgun registration that I know is extremely important to you in your law enforcement. Have you in your years of law enforcement utilized, since 1968, the ATF data that is available in the tracing of handguns?

Mr. QUARNBERG. We have to a degree, and perhaps to a greater degree we have not in our area. And my understanding of the way the

records are kept, our individual retailers, merchants keep the records in their individual shops that they have acquired as a result of this 1968 gun control act, and if they are required to submit those to somewhere here in Washington, I am not aware of that. The information that we have been getting back from our local merchants is that they are told by the Government to hold those records until such time as they are required. And my personal experience with our dealers has been that they have large boxes full of these records in their basements, and they are just sitting there, and no one is using the information.

Mr. HUGHES. There is no organized data, and it is not centrally located.

Mr. QUARNBERG. Yes, sir. That is correct.

Mr. HUGHES. What you are saying is first of all, it is just the possession of the information and it is not disseminated to any central agency?

Mr. QUARNBERG. That is correct.

Mr. HUGHES. Were you also aware of the fact that under the 1968 law that even though manufacturers have to keep a record of the name and address and the type and serial number on distribution to distributors, and to the retailers, and then to the first purchaser, that thereafter there is no record maintained? Were you aware that the law just stops with the first purchaser?

Mr. QUARNBERG. Yes. This has been somewhat disturbing to law enforcement I think in the fact that two problems are there inherently in the system. One is the fact that after that first purchase from a retailer there is no more record, and you are free to sell that weapon to whomever you like, and no records need be kept on it. And I am sure that in many cases where a person, if there are laws prohibiting some person because of his past police record from obtaining a weapon, all he needs to do is to go and get a friend to go and get it for him.

Mr. HUGHES. Do you have a registration law in your State?

Mr. QUARNBERG. No, sir. We do not.

Mr. HUGHES. Is there any type of a law that requires the reporting of any weapons that are stolen?

Mr. QUARNBERG. There is no law that requires a person to report if his weapons are stolen; no.

Mr. HUGHES. Do you find that the failure to take the tracing technique beyond the first purchaser, and also the absence of any requirement that stolen weapons be reported are deficiencies that hamstringing you in the protection and the prosecution of offenses?

Mr. QUARNBERG. Yes; I believe that is the case. The only thing that I can see that would provide incentive for an individual gun owner to record and report information on weapons that are stolen from him is the fact that there is some kind of an insurance requirement that the companies will contact us to see if the person filed a police report, and that is necessary before the insurance company will pay off.

Mr. HUGHES. One of the problems there is that with the \$50 to \$100 deductible, if those weapons are not recorded, then there would be no reimbursement from the insurance company?

Mr. QUARNBERG. That is correct.

Mr. HUGHES. How long have you been in the police business?

Mr. QUARNBERG. I have been in the Sheriff's Department for 4 years. I did have some law enforcement experience in the military.

Mr. HUGHES. How many years in the military?

Mr. QUARNBERG. With the U.S. Navy on shore patrol activities.

Mr. HUGHES. Just with the 4 years that you have been with the Sheriff's Department, can you give me your best estimate of the number of criminal investigations that are centered around the handgun, your best estimate?

Mr. QUARNBERG. Are you referring to the—

Mr. HUGHES. Whether it be a homicide, an assault, or a report of a stolen weapon, an investigation centering on a handgun involved in some type of a crime?

Mr. QUARNBERG. I would say that it averages somewhere in the neighborhood between 8 and 10 per week in our department.

Mr. HUGHES. Eight to 10 per week?

Mr. QUARNBERG. Multiplied by 4 years, so—

Mr. HUGHES. So we are up in the 4 to 500 weapon range?

Mr. QUARNBERG. I think that is probably an accurate figure. And in stating that I should indicate that our department, although it is the county sheriff's department, is not the largest police unit in the county. There are two others that are larger than ours, and the volume of traffic that they would handle would probably be greater than that which we would handle.

Mr. HUGHES. And of those weapons that some investigation is centered upon, what proportion roughly would be involved in crimes of passion as opposed to crimes of nonpassion?

Mr. QUARNBERG. Somewhere around, probably around 1 to 2 percent.

Mr. HUGHES. So the great bulk of the investigations were not connected with a crime of passion?

Mr. QUARNBERG. We would say that probably 1 to 2 percent were connected with violent crimes, and the rest would be centered primarily around stolen weapons and these kinds of things.

Mr. HUGHES. And of the total investigations involving a weapon, crime related, how many of those cases were you successful in determining the identity of the person that perpetrated the offense, roughly?

Mr. QUARNBERG. In the area of violent crimes committed back in our county, those crimes that were of a violent nature and included the use of a weapon, because of the fact that we are rural and, therefore, most of our citizens are known, and we deal with our people on a very personal basis generally, our records of resolution of these kinds of crimes is probably somewhere in the neighborhood of 50 percent or better.

Mr. HUGHES. Now, of those crimes that were not solved, what percentage, in your best estimate, were directly related to your inability to determine who owned or possessed the weapon?

Mr. QUARNBERG. Again, are you talking about just the violent crimes?

Mr. HUGHES. Violent, let's stay with violent crime and then we will get into nonviolent crimes.

Mr. QUARNBERG. Again, I suppose it would be somewhere around perhaps 1 to 5 percent that we would not be able to resolve because of the inability to trace the weapon.

Mr. HUGHES. How about in the nonviolent crimes?

Mr. QUARNBERG. In the area of the theft of firearms and, for instance, recovering a weapon where we could not trace that back along

the line, to follow it back to the original owners, and thereby perhaps solve a theft case or a burglary. I would say that our figures would indicate that probably 50 to 75 percent of those kinds of crimes we were not able to solve because we could not trace the path of that weapon from the original owner up to the person.

Mr. HUGHES. So what you are saying is that because of the inability of police departments such as yours to be able to identify a weapon, you are unable to solve the great majority of the nonviolent offenses?

Mr. QUARNBERG. I would reverse that and say if we had the ability to trace these weapons, then we would be able to solve probably 50 to 75 percent more of the crimes that we do not solve because of that inability.

Mr. HUGHES. Now, in the area of the inability to trace the weapon, and thereby making it very difficult to solve the offense, how many, roughly, in your best estimate, are directly related to your inability to develop first of all a case developed on the leads that are necessary in any investigation, and then my second question is what percentage of those presented a problem to you in establishing the chain of custody after you apprehended someone?

Mr. QUARNBERG. In terms of being able to either develop or not develop a case because of leads, many times the weapon is one of the major sources of leads that we would have. As far as the other physical evidence that we might obtain at the scene of a crime, for instance, a larceny or a burglary, there is a great deal of other physical evidence that we generally depend upon. And if we had just the isolating that one source of leads to the firearm itself, I would say that probably where the gun theft is the element of the crime, probably somewhere in the neighborhood of around 50 percent of the time we would be able to develop a case better if we had that information.

Mr. HUGHES. Yes. Have you found yourself in the position from time to time of having a great deal of physical evidence, but one of the major factors is a ballistics test which is positive, but your inability to connect that weapon to the individual, have you found that to be a problem?

Mr. QUARNBERG. I think we have found that to a lesser extent in our area simply because we have a smaller volume of those kinds of crimes in our area.

But we have had two recent cases of homicide in which the weapon was very much in question as to who owned the weapon, and that was a very critical element in our homicide case.

Mr. HUGHES. Well, summing up your testimony then, it is clear to me, anyway, and unequivocal in my judgment that certainly the ability to trace is an important tool to you that you presently lack?

Mr. QUARNBERG. Yes, sir.

Mr. HUGHES. Let me just get back to Congressman Ashbrook's question about the deterrents of the registration. The traffic in illicit weapons is apparently heavy throughout the country, and I would presume that even though you may not have the same problems that some of the metropolitan areas have, you certainly I am sure have a problem with the trafficking of weapons in your jurisdiction.

Mr. QUARNBERG. That is correct.

Mr. HUGHES. Now, one of the reasons, let me ask you this, why do thieves generally steal a weapon?

Mr. QUARNBERG. As a general rule in our area, and I feel certain it extends beyond our area as well, there is just a great demand for guns. Obviously in most cases thieves steal things they can sell, and guns are very easily sold.

Mr. HUGHES. I would assume that many of the assaults and many of the homicides are related to either a robbery, or a burglary, that the robber or burglar has been surprised in the act of burglarizing. Is that a fair assumption?

Mr. QUARNBERG. Not to a great degree. Many of the homicides that we investigate are family related. However, I can recall in the past several years a number of cases which were related to robbery, burglary, and theft.

Mr. HUGHES. We are running out of time. Let me see if I can just get us to the point. I assume that one of the reasons why there is some traffic in weapons is because it is difficult to trace stolen weapons?

Mr. QUARNBERG. That is correct.

Mr. HUGHES. And it would seem to me thieves that commit offenses because they think they are smarter than society, and many crimes would not be committed if they felt first of all that they would be caught, is that a fair assumption?

Mr. QUARNBERG. That is a very fair assumption.

Mr. HUGHES. And I would assume if we had an effective tracing law that it would add as some deterrence in the commission of offenses if they felt that the weapon could be traced to them effectively, and it would certainly seem to follow that it would cut down to some extent on the commission of offenses committed with handguns, for instance?

Mr. QUARNBERG. I believe that is true. And one of the major points that the National Crime Prevention Institute sets forth, and I believe that the statistics they have accumulated would bear this out, is that where a thief comes to a point that he recognizes the fact that the merchandise in a home or a business, that the police would have the ability to trace that, he is much more likely to leave that merchandise alone and go somewhere where he feels fairly sure that the merchandise he intends to steal cannot be traced.

Mr. HUGHES. In other words, I realize that crimes of passion it matters not whether you know the gun is registered or what have you. But, it has been my experience that there are a lot of people that commit offenses because they weigh the advantages and disadvantages, the pros and cons, and they have made a value judgment that they can get away with it. And it seems to me that our whole tracing system, inadequate as it is, has just given a lot of people that would not ordinarily possess a weapon, burglars, for instance, often carry very few tools with them because they do not want to be caught with the tools, and it just seems that even though perhaps it may not amount to a great deal to the overall law enforcement picture, it is going to add some deterrents in those instances where thieves in particular weigh the variables and figure that it is very difficult to trace a weapon because we do not have proper tracing techniques. Therefore, why not carry a weapon in case I have to have it and, of course, when you carry a weapon because you feel you may need it, there is always that time when you do need it, and I believe that is what we are trying to direct ourselves to, at least in part of this.

Mr. QUARNBERG. I think that is correct.

Mr. HUGHES. Thank you very much.

Mr. ASHBROOK. Well, Mr. Chairman, could I ask the question too? I think, at least from my standpoint, the record may not have been clear in some of your responses. We went through a lot of statistics there, and I want to make sure that I did not lose it in the process. In following the line my colleague from New Jersey was very carefully developing on crime which could not be solved because of the inability to trace, at least in my mind we have jumped a couple of statistics. I think your first response was that at least as it related to violent crimes, in your opinion, 1 to 5 percent were the number that could not be solved because of an inability to trace a weapon that had been used in the commission of a violent crime. Was that where we started, at that point? Do you recall that?

Mr. QUARNBERG. The question centered around our ability to develop the elements necessary to bring the case to prosecution. I think it is important to realize that many times the police know, in fact, who committed the crime, but because of their inability to bring that evidence before the court in a manner which is acceptable under the law, then the case goes undeveloped to that extent. And this was my point in saying 1 to 5 percent. That is not to say that the crimes go completely unsolved.

Mr. ASHBROOK. At least there is a difficulty because of an inability to trace, and I think that is the way you put it?

Mr. QUARNBERG. Right.

Mr. ASHBROOK. And then I understand that you jumped to the next place, and that is where I think I might have lost you, or the record may not reflect what you really meant, but you were then asked in the remaining crimes other than the violent what percent would have been those which would have been difficult to develop or complete or pursue because of an inability to trace. And as I remember your response, you said, well, at least in those areas where it is the theft of a weapon, you talked in terms of 50 to 70 percent. Was that your response at that point, 50 to 70 percent of those particular crimes in this remaining area could not be developed, completed or handled, in your opinion, because of an inability to trace? Is that the response you gave?

Mr. QUARNBERG. Well, we did, indeed, jump around a little bit. And the point that I wanted to make, and perhaps I did not make it well, was that where we are talking about the theft of the handgun, or any weapon for that matter, and that being a crime in and of itself, we may recover those weapons in a variety of ways, not always leading to a prosecution. But because of our inability to trace that weapon back to the original owner we are not able to make a case out of that.

I will give you an example of what I am talking about. For instance, we may recover five or six weapons from an individual who has been arrested for some other crime, and he rather than claim those weapons, with the chance that they might be reported stolen, he will disclaim any ownership. He will say, for instance, that they belong to some guy he picked up, and he is holding them, and the guy will come back after them sometime. He just disclaims any ownership. We will take those weapons into our custody because there is no one who claims ownership on them, and then because we cannot go back and trace to where

those weapons were stolen from, we cannot develop a case on that, where if we had that ability it might be that we could develop a case against this person or some other person for burglary, or a theft or something like that. That is what I intended to say.

Mr. ASHBROOK. To make sure I know what you are talking about, you are only talking about the areas of crime that are related to a theft of a weapon?

Mr. QUARNBERG. Nonviolent crimes.

Mr. ASHBROOK. That is my point, because as the questioning went back and forth it almost sounded to me like we all of a sudden were jumping to where all of the remaining crimes, exclusive of the 1 to 5 percent that you were talking about, found you in a position of some inability to pursue because of not being able to trace. You were clearly not talking about all of the remaining crimes that were placed in a position of 50 to 70 percent being unable to go forward because you cannot trace the weapon? I guess that is the point that I wanted to make sure of, because as it went back and forth it almost sounded like you were talking about every crime, not just the crime that related to theft of weapons, and that I guess is just the point that I wanted to make sure was in the record.

Mr. CONYERS. Does the gentleman have anything further?

Mr. ASHBROOK. No, that's fine.

Mr. CONYERS. Well we thank you both, Congressman McKay and Detective Quarnberg. Your down to earth account of how we can strengthen the law has been very helpful, and I am deeply appreciative to both of you for coming before the subcommittee.

Mr. MCKAY. Thank you, Mr. Chairman.

Mr. QUARNBERG. Thank you.

Mr. CONYERS. Thank you very much.

Our next and final witness is Mr. Bill Kerschner, the owner of Bill's Gun Shop in Leesport, Pa. Representative Gus Yatron may or may not be here, but his Legislative Assistant Lisa Cannon is here with him, and we welcome you both before the committee.

Mr. Kerschner comes to us from a city or a town of 3,000, and he has held a Federal firearms license for a period of 2 years and has never been investigated or checked for compliance and inspection by the Alcohol, Tobacco and Firearms Section.

And we have learned through his discussions with counsel that he sells about 12 handguns a year, and his business is right out of the basement of his home. He has hours from 3 to 7 in the evening, and 7 a.m. to 12:30 in the afternoon on alternating weeks. And among the rifles, handguns and shotguns he sells, he also sells fishing tackle and other hardware items.

He keeps his handguns at a very minimal number and orders them when he needs them. He secures them through lock cables and keeps very good security apparently on his windows and doors. They are barred. Furthermore, he sells three primary kinds of handguns, the .25 automatic Sterling, the .38 Titan and the .357 Magnum.

Interestingly enough, Mr. Kerschner came to our attention through a letter that he wrote to his Congressman, and this letter I am going to read by way of introduction and goes as follows:

DEAR SIR: I am writing you because I do not know who else to get in contact with in connection with gun laws. The only new laws that I can think of that

would be any help is that each person show the dealer, the department store or whatever that he or she has a permit for the certain type of handgun that they wish to buy ammunition for, and under no circumstances can they acquire ammo unless they have a permit or proof of ownership and a permit for carrying said firearm.

I also feel, number two, that during regular deer, turkey and groundhog season that each hunter be required to use a scoped rifle. This would eliminate the accidental shooting of humans. In this way the person shooting said rifle would be able to distinguish between animals and human beings before pulling the trigger.

Would appreciate your views about this matter. Thank you.

Signed by our witness, Mr. William Kerschner.

Now, through that very democratic process that letter was forwarded to this committee, and we are delighted that you could take time out of your normal activities to join us.

We want to recognize Congressman Yatron's assistant, Ms. Cannon, if she has anything to say before we ask Mr. Kerschner to talk with us.

TESTIMONY OF WILLIAM KERSCHNER, LEESPORT, PA., ACCOMPANIED BY: LISA CANNON, LEGISLATIVE ASSISTANT TO REPRESENTATIVE GUS YATRON

Ms. CANNON. Mr. Chairman and other distinguished members of the subcommittee, thank you very much for the opportunity to appear. And I want to convey the regrets of Congressman Yatron for not being able to personally introduce Mr. Kerschner.

Mr. Kerschner does not have a prepared statement as I do not, and I am sorry we had brief notice for this appearance, and perhaps we could address some question to Mr. Kerschner which he would very much like to answer.

Thank you.

Mr. CONYERS. Well, I am going to ask counsel, Mr. Barboza, to conduct the questioning. But before he does, Mr. Kerschner, what do you want to tell us by way of amplifying your letter in our introduction before we start talking with you? What has been your impressions of the hearings? I notice that you have been here all morning.

Mr. KERSCHNER. Well, it has been very interesting so far.

Mr. CONYERS. I am sure it will continue to be.

Mr. KERSCHNER. There are some things that could be changed, and in one way to help and in another way it would not. So far as registration, I think if the registration on handguns was nationwide the same as it is here, it will help, and the same way with long guns, rifles, and shotguns, new or used. When I sell a new gun it has to be registered and the dealer holds that now, and if you pass a bill, even if you want to sell a used gun, if I sell a used gun in my shop, that is also registered with me. And I assume it should be the same thing with the used gun, the same thing with the handgun so that you still know where they are.

Mr. ASHBROOK. Mr. Chairman, could I ask a question at that point?

Mr. CONYERS. Please do.

Mr. ASHBROOK. I am always interested, you know, in those who are in the business, whether it is a policeman or the selling of the gun. Among those you deal with, if you had two petitions on your counter, one asking to sign that I believe in national registration of firearms, and one saying I oppose national registration of firearms, from your

general conversations which you obviously have with your purchasers, your customers and all of this, which view do you think they would take?

Mr. KERSCHNER. Well, in my area I think they would take the one where they would sign for it.

Mr. ASHBROOK. For the registration of firearms?

Mr. KERSCHNER. Yes.

Mr. ASHBROOK. That is very interesting. Thank you.

Mr. CONYERS. Would you care to amplify that?

Ms. CANNON. Mr. Chairman, excuse me. I might just add that we have a great volume of mail in our office on this subject. It is a rather rural district that Mr. Yatron represents. Almost everyone there owns a gun of some kind, and we get a great deal of mail. And I must say that I certainly do not mean to contradict Mr. Kerschner, but the overwhelming feeling is that registration leads to confiscation, and that is their belief, and they are very much opposed to any form of gun control. And I would say that we have gotten thousands of letters to that effect.

Mr. CONYERS. Let me turn now to counsel, Mr. Barboza, to carry on this discussion.

Mr. BARBOZA. Mr. Kerschner, what would you estimate is the ratio of ownership of handguns to long guns, rifles, and shotguns in your town?

Mr. KERSCHNER. Well, I would say there is about 20 percent or 30 percent of handguns compared to the long guns, rifles, and shotguns.

Mr. BARBOZA. Do you sell approximately 12 handguns a year?

Mr. KERSCHNER. Well, right now, yeah. I could sell more if I could get them. A lot of them you cannot get to sell.

Mr. BARBOZA. How would you describe competition in your town for the sale of handguns, how many other dealers sell handguns?

Mr. KERSCHNER. Well, there is quite a few of them and the ones that I feel are doing most of the harm are these discount stores.

Mr. BARBOZA. Discount stores? Would you explain?

Mr. KERSCHNER. Nickels.

Mr. BARBOZA. Would you explain how the discount stores operate?

Mr. KERSCHNER. Well, as far as the ammunition, I do not know if it is on the record, but I think back prior to June of 1972 it was in the paper where all gun dealers had to have a signature for .22 ammunition. And if I had 100 boxes in the store, and I sold 99 and could not account for the one box, they could fine me \$1,000. But yet you could go to Nickels, or Grants, or any of these other stores and you could buy all you wanted and you did not have to sign your name for anything.

Mr. BARBOZA. Is that a State law?

Mr. KERSCHNER. According to the paper it was, according to the paper it was.

Mr. CONYERS. What accounts for the difference in treatment then?

Mr. KERSCHNER. I don't know. I don't know what the difference is, why the small dealer has to have the signature and the big companies don't. And that is where a lot of these people are getting a lot of these nonregistered guns, and then they are getting all of the ammunition they want.

Mr. BARBOZA. Mr. Kerschner, would you explain the procedure that you are required to go through prior to the sale of a handgun in the State of Pennsylvania?

Mr. KERSCHNER. When they come into my shop to buy a handgun, first they have to fill out an application for purchase of a gun. I send one copy to the county courthouse, one to Harrisburg to the State police. If I do not hear nothing within 72 hours, then I send in the other form, which is the record of sale, which are to the same places, the county courthouse and to the police in Harrisburg, and then you take the gun along. But I was wondering how many are even checked out. I don't know if any that I have sold have ever been checked.

Mr. BARBOZA. You do not know, that is, whether the courthouse or the State police check it?

Mr. KERSCHNER. That is right. I feel if they would be checked out closer there would be a lot of them that would not be getting them that are now, that should not have one.

Mr. BARBOZA. You have been in business then for 2 years?

Mr. KERSCHNER. It will be 2 years in June.

Mr. BARBOZA. And during that period of time how many guns would you not have sold if you had had the authorities or the local police that might have denied it?

Mr. KERSCHNER. Well, the ones that I sold, I don't think I would have lost any sales to any of them.

Mr. BARBOZA. You feel everyone you sold a gun to——

Mr. KERSCHNER. Everyone I sold to either I knew or he was brought to me by somebody that did know me, and they knew them really well.

Mr. BARBOZA. So you know most of your customers?

Mr. KERSCHNER. Most of them, most of the ones I sold, yeah.

Mr. BARBOZA. What are some of the uses in your area for handguns? It is a hunting area I assume, is that correct?

Mr. KERSCHNER. Most of them use them for hunting, yes, the handguns.

Mr. BARBOZA. The handguns for hunting?

Mr. KERSCHNER. Yes.

Mr. BARBOZA. What kind of hunting?

Mr. KERSCHNER. Well, some of them are scoped and they use them for deer.

Mr. BARBOZA. Handguns?

Mr. KERSCHNER. Some use them, yes. A lot of target practice with the shotguns, they have a lot of clay bird shooting up in that area, and also the rifles and rifle matches.

Mr. BARBOZA. Yes. With respect to the registration law that you would propose to the subcommittee, what would you see as the benefits of that, and how would you view your role as a federally licensed firearms dealer?

Mr. KERSCHNER. You mean what you were talking about before; registration of handguns?

Mr. BARBOZA. Of handguns; right.

Mr. KERSCHNER. If the fellow comes in to me and wants to buy ammunition, and he cannot show me that the gun is either registered, that he can have it on his property to shoot, or that he has a permit to carry

it for his protection, I cannot sell him any ammunition, and that way I feel you will know in the area how many are around that are not registered, and maybe 5 out of 10 you would probably even know the people that have them, and they could check them out afterward.

Mr. BARBOZA. How much ammunition a year do you sell for each of the handguns you sell? Do the owners come back in to buy ammunition?

Mr. KERSCHNER. When I sell a handgun they just buy one box with it.

Mr. BARBOZA. What's that?

Mr. KERSCHNER. And I don't think I sold anybody more than one that bought one.

Mr. BARBOZA. How many rounds of ammunition are contained in that box?

Mr. KERSCHNER. Fifty.

Mr. BARBOZA. Mr. Kerschner, what is the nearest city to Leesport, major city?

Mr. KERSCHNER. Reading.

Mr. BARBOZA. Reading? And do you get very many purchasers from the citizens of Reading?

Mr. KERSCHNER. Do I sell to citizens of Reading? I would not sell to anyone in Reading. No. They are all, I would say they are all from out in the county, from out in the country there.

Mr. BARBOZA. With respect to your premises; is it correct that your business is operated in the basement of your home?

Mr. KERSCHNER. Right.

Mr. BARBOZA. In our discussions you indicated that you did not maintain a stock of handguns. Why is that?

Mr. KERSCHNER. Well, for the simple reason that if you come to me for a handgun, and it is available, I can get it within 2 or 3 days, and there is no reason that if you come to buy a handgun that you have to have it the same day. So if you cannot wait 2 or 3 days, then, you know, you will just have to go someplace else and buy it then. Usually 9 out of 10 wait.

Mr. BARBOZA. Is there a reason why you don't keep a stock of handguns?

Mr. KERSCHNER. Because of somebody breaking in and stealing them, and my shotguns and rifles, I have them all in a cable that is not supposed to be able to be cut with bolt cutters. And as I say, they probably could get it off the wall, but it is going to take a couple of hours for them to get it loose.

Mr. BARBOZA. Have any of your regular customers ever come into the store and indicated that they have had a handgun stolen and that they are replacing it?

Mr. KERSCHNER. No; none that I know of.

Mr. BARBOZA. Would you make a guess, or would you have any idea of how many handguns might be stolen in your community, from the newspaper accounts or discussions with police?

Mr. KERSCHNER. Handguns? I don't know. I didn't read of any. There was some shotguns and rifles stolen in the town, in Leesport.

Mr. BARBOZA. Have you had anyone attempt to break into your premises?

Mr. KERSCHNER. Not yet. Not yet.

Mr. BARBOZA. With respect to your ordering of handguns, where do most of your handguns come from, the ones you sell, and who are the manufacturers?

Mr. KERSCHNER. Eastern Shooters in Tremont, I get some of them.

Mr. BARBOZA. Is that a distributor?

Mr. KERSCHNER. That's correct, for Winchester.

Mr. BARBOZA. In Pennsylvania?

Mr. KERSCHNER. Right. And the last couple of shotguns and handguns I got from the Southern Handguns in Florida. I couldn't get them locally.

Mr. BARBOZA. What are the types and calibers of the handguns you sell and the manufacturers of those?

Mr. KERSCHNER. The handguns that I got from Florida, from the Southern Guns, they were .25 automatics.

Mr. BARBOZA. .25 automatic?

Mr. KERSCHNER. I got three of those and I sold two.

Mr. BARBOZA. How big is that gun? What is the length?

Mr. KERSCHNER. I think it is $4\frac{1}{2}$ inches in length.

Mr. BARBOZA. Four and a half inches, so that gun would not be used in a shooting contest; would it?

Mr. KERSCHNER. Well, the ones that I had sold, there were three women got them just for protection to carry around in the pocketbook.

Mr. BARBOZA. Protection. Do you see that there is any problem in the transportation of firearms in commerce? For instance when you order a gun how do you receive the gun, first of all? Does it come by mail?

Mr. KERSCHNER. They ship it by UPS. But now handguns, if I ordered handguns and ammunition in the same order—

Mr. BARBOZA. Yes.

Mr. KERSCHNER. They will ship it out and it is marked "Class E Explosives," and I don't know if class E is on anybody's classing license that has one, but I feel if it has any kind of an explosive mark on the box that it should be checked before it comes into the State, and none of them were.

Mr. BARBOZA. Can you give me the names of the kinds of guns you sell, who manufactures them, the .38's and the .357 Magnum?

Mr. KERSCHNER. The .38 is Titan, and the .25—

Mr. BARBOZA. That is a Florida manufacturer?

Mr. KERSCHNER. Right; manufacturer in Florida.

Mr. BARBOZA. Do you know anything about the manufacturer?

Mr. KERSCHNER. Well, I have one registered in my name which I use for hunting, the .38, and the only reason I do sell, started to sell them was because I thought that it was a safe gun because I bought one and I shot it for maybe two or three boxes through before I ordered some to sell.

Mr. BARBOZA. Is that a gun, do you know whether that gun is totally made from parts manufactured in the United States?

Mr. KERSCHNER. No. I think some of them are made in Germany, some of the parts.

Mr. BARBOZA. And then assembled here in the United States?

Mr. KERSCHNER. Right.

Mr. BARBOZA. What about the other two types of guns?

Mr. KERSCHNER. The .25 automatics, they are I think, most of those parts are made in Germany to, but they have steel frames which are safe.

Mr. BARBOZA. And the .357, what is the name of that gun?

Mr. KERSCHNER. The .357?

Mr. BARBOZA. No; the .25 automatic.

Mr. KERSCHNER. That is Titan, the same as the .38.

Mr. BARBOZA. The same as the .38?

Mr. KERSCHNER. The same as the .38.

Mr. BARBOZA. And the .357 Magnum?

Mr. KERSCHNER. Smith & Wesson and Ruger.

Mr. BARBOZA. Do you sell very many Smith & Wessons?

Mr. KERSCHNER. No; because you can't get them.

Mr. BARBOZA. Why is that?

Mr. KERSCHNER. I don't know, just a lot of the dealers don't have them. They are making them, but the local dealers cannot get them. I do not know if they are shipping them across or what.

Mr. BARBOZA. Is it because there is a demand for their guns?

Mr. KERSCHNER. It's possible there is; yes.

Mr. BARBOZA. Are there many pawnshops in your town?

Mr. KERSCHNER. Not in Leesport; no. There are some in Reading.

Mr. BARBOZA. I see. I have no further questions.

Mr. CONYERS. Thank you very much, counsel. I yield to the other counsel.

Mr. GEKAS. Thank you, Mr. Chairman.

One of the things that we are confronting as we look at various systems here, registration and licensing, and all of the variations of those kinds of systems, one of the questions that comes up is compliance by the law-abiding citizen, because let us face it, it is the criminal and the gunrunner who is giving the law-abiding gun owner and the law-abiding gun dealer such as yourself the bad name, and he is the one that is causing all of the trouble, and he is the one that causes the crimes for all of the different types of legislation we are confronted with.

Is it your feeling, based on your experience in your context with people in your part of Pennsylvania that if there was a reasonable law, some kind of registration system as you have suggested today, that the law-abiding citizens, they might not like it, but they would recognize that we are trying to prevent the criminal use of guns, and the criminal traffic? Is that how your people in Pennsylvania would react?

Mr. KERSCHNER. The way I feel, the only ones that would not like it would be the criminals who want to have them.

Mr. GEKAS. Well, you know that there is a lot of press, and a lot of organizations who argue against that, and they say that the law abiding citizen should not be put under the burden of having to register his ownership, or having to license himself to purchase a firearm. And we have found I think in receiving testimony from people like yourself, and when we were in Chicago we had another gun store owner who testified along similar lines and suggested to us that the gun owners and the store owners would accept a reasonably limited registration or licensing system so that we can stop the bad guys from getting them and using them to kill people.

Mr. KERSCHNER. That is why I said if it was nationwide as far as registering the handguns and the long guns in the other States as we do here, why it would be a lot easier to trace them I feel.

Mr. GEKAS. Right. Well, I appreciate your coming here because that is, you know, helpful for us to get help from people out there and hear from the people who would be having to comply with any system.

Thank you, Mr. Chairman.

Mr. CONYERS. We are very grateful and we appreciate your letter. It is kind of refreshing to know that there are citizens that are following our legislative activities, and that they write their Congressmen, and that the Congressman does something about it. And it was through Mr. Yatron that we were able to elicit your testimony and I think it is very helpful, as you can see, in terms of us getting a feel for the problems. You have raised some points here that we are going to try and develop further, and our counsel will be in touch with you. Thank you very much.

Mr. KERSCHNER. Thank you, Mr. Chairman and subcommittee, for having me.

Mr. CONYERS. And on that note the subcommittee stands adjourned. [Whereupon, at 12:32 p.m., the hearing was recessed subject to the call of the Chair.]



FIREARMS LEGISLATION

THURSDAY, JULY 17, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 219, Cannon House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Hughes, McClory, and Ashbrook. Also present: Maurice A. Barboza, counsel.

Mr. CONYERS. The subcommittee will come to order.

This afternoon the Subcommittee on Crime of the House Committee on the Judiciary continues hearings on firearms legislation.

We are happy to again hear testimony from the Director of the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury, Mr. Rex D. Davis.

The Director has with him a number of familiar associates. We welcome you to come forward with whomever you choose, introduce them, and continue your testimony.

TESTIMONY OF REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF THE TREASURY

Mr. DAVIS. Thank you, Mr. Chairman.

Mr. Chairman, it is a pleasure to appear before the Subcommittee on Crime. Today, I have Mr. Marvin Dessler, who has appeared before the committee before, who is the Chief Counsel for the Bureau of Alcohol, Tobacco, and Firearms.

On my left, Mr. Miles Keathley, Deputy Assistant Director, Criminal Enforcement of the Bureau of Alcohol, Tobacco, and Firearms, and we have in the audience, Mr. Ed Owens, who is a firearms technical expert of the Bureau of Alcohol, Tobacco, and Firearms.

Mr. Chairman, if it pleases the committee, I will continue with the presentation that we have conducted during the other appearances before the committee. It should not take long; however, I feel there is information involved of interest to the committee.

Mr. CONYERS. If I might say, your testimony has been one of the benchmarks by which these hearings have been conducted, and we are grateful for the rather large amount of time that you and your staff have put in before us.

If you could, is there some way you might briefly outline the materials that you have covered, in order to bring us up to date?

We have not had you before us for several weeks now. Please give us a bird's-eye view of the matters in which you intend to wind up your testimony.

Mr. DAVIS. It would be my pleasure, Mr. Chairman.

In the previous appearances before this subcommittee, we have discussed the handgun situation generally in the United States, in terms of the population of handguns in private ownership, which we estimate, I think fairly accurately at 40 million, and the fact that each year this population of privately owned handguns increases in the amount of 2,400,000.

We have advised the committee of what the impact was of the 1968 Gun Control Act on the importation of inexpensive concealable handguns and the fact that the 1968 legislation has been circumvented through the importation of parts and the domestic manufacture of the kinds of handguns that were prohibited from being imported by the 1968 act.

We brought the committee up to date concerning those kinds of weapons that are particularly useful to criminals, such as sawed-off shotguns, machineguns, and then the 1970 amendments which included destructive devices, such as mines, bombs, Molotov cocktails, et cetera.

We advised the subcommittee as to the organization of the Bureau of Alcohol, Tobacco, and Firearms. We indicated the use to which our manpower is being put to the various responsibilities that we have.

We indicated a number of arrests and seizures as they relate to firearms, the number of arrests that are made by the Bureau for firearms violations, exceeding 3,000 per year and we also advised the committee as to judicial disposition of the cases that are made for violation of the Federal firearms laws.

We pointed out to the committee that one of our responsibilities is the licensing of manufacturers, importers, and dealers, and that we presently have a population of dealers in the United States that amounts to about 156,000 but, however, we feel that many of these people are only nominal dealers, not commercially engaged in this business of selling firearms and that we felt that this number could probably be reduced to somewhere in the neighborhood of 30,000 or 40,000 legitimately licensed dealers who are actively engaged in the promotion and business of selling firearms.

We indicated to the committee the kinds of actions that we take on applications for licenses, those that we deny, those that we issue.

We indicated to the committee that because of the large number of licensed dealers and the small amount of agent manpower with respect to manpower that we have, that we are not able to effectively conduct compliance checks on these dealers and we estimate at the present rate, it would take us something like 5 years between every visit to a dealer, if we visited every one.

Again, we indicated to the committee the manpower that we used in this particular area. We also told the committee of our efforts in tracing the ownership of weapons that are used in crime. We advised the subcommittee, for example, that last year we traced 33,000 firearms that were used or suspected of being used in crime.

We indicated that about 60 percent of these traces were made on behalf of State and local law enforcement organizations.

We indicated to the committee a small sample to determine the effectiveness of gun tracing as it relates to crime in which it was indicated that in the case of sampling it is a very effective tool to be used.

We discussed project identification, in which we have, working with the local police, traced weapons when we first appeared before the committee. I think we had the results of eight cities.

Today, I am prepared to give the committee information on a total of 16 major metropolitan areas that we have conducted traces in. I think we did indicate to the committee and this has been borne out throughout the study, that there is a very discernible pattern that guns found to be used in street crime in those areas having strict controls, that sources for those guns come from outside of the State in which the metropolitan area is located; therefore, very obviously, the people are avoiding gun laws by acquiring firearms in areas where the laws are less strict.

We indicated to the committee what we are doing in the area of assistance to State and local law enforcement officers, such things as laboratory assistance training and things of this kind.

We also told the committee in previous appearances that we have instituted an interstate firearms theft program in an attempt to stop thefts of firearms from interstate shipments.

We have indicated as a result of reports to us, it appears this program has been very effective, because the number of theft incidents reported to us has dropped from approximately 75 a month down to about 45 a month. So we feel the fact that we made special emphasis on these kinds of thefts and the fact that as a result of this many of the carriers introduced higher levels of security and has had a very salutary effect in preventing thefts from interstate commerce, from interstate shipments.

We told the committee that the so-called pen guns—those guns that were designed to expel tear gas—things of that sort, but, unfortunately, as a result of seizures we had made and information we received from police departments throughout the country, the conversions and use of these kinds of weapons were increasing and represented a particular threat to the lives of law enforcement officers. So we did, as of July 1, issue a ruling that these guns, because of their ready convertibility to fire fixed ammunition would as of July 1, be considered as firearms under the act and, therefore, would have to be serialized and only dealt with by licensed dealers.

Mr. ASHBROOK. Serialized by the manufacturers?

Mr. DAVIS. Yes; of course, I might say my estimate is that about 50 percent of those that were introduced into commerce in the United States were imported, therefore, since they are firearms, they can no longer be imported into the United States.

We also advised the committee that on the basis of our various projects and studies and other things, that there appeared to be a rather sizable traffic in handguns which was brought about by the fact that an individual could go to a dealer and buy any unlimited number of handguns and therefore, go out on the street and resell them unlawfully and also without complying with Federal laws,

so, therefore, effective July 1, 1975, we have required that dealers report to the Bureau of Alcohol, Tobacco, and Firearms any sale of more than one handgun at the same time to the same individual or more than one handgun to the same individual during 5 business days. We have some early results which I will be happy to pass on to the committee, with respect to the multiple sale of handguns.

Mr. Chairman, I think that, then, is a quick summary of where we have been and at the committee's pleasure, I will proceed to bring the information up-to-date and complete the presentation.

Mr. CONYERS. Thanks for that excellent review. You remind me of how much re-reading I will have to do.

Mr. DAVIS. Mr. Chairman, when we were here before we advised you at that time that we had instituted our Greenville project. This came about because of our project identification efforts in the city of New York, which showed that a large number of handguns used in street crime in New York had their source in South Carolina and so, very frankly, what we wanted to do was find out how many other prohibited persons were purchasing handguns, felons. There is some sort of an updated chart of the Greenville project.

What we did, I think this is interesting, because it shows a little bit about the dealer population. When we looked, we found out that in the city and county of Greenville area there were 203 licensed dealers. Again, we suspect many of these were really not engaged in commercial traffic but we did take the 17 largest dealers in the Greenville area, including 5 pawnbrokers and we surveyed their firearms records for a 6-month period. We found that these 17 dealers had sold 2,651 handguns during that 6 months and incidentally, it was the period from May 1, 1974 to October 31, 1974.

As a result of that, we found, at a close glance, that there were 73 people that had felony arrest records, and about 200 or about 10 percent had arrest records. When we narrowed it down, as a result of FBI checks, we finally found there were 68 who had actual felony convictions, some of them, for example, had been pardoned. One man was not the proper man—he was not the same person as another person with the same name—but at any rate, as a result of that, about 3 percent roughly who purchased firearms in the Greenville area during the 6 months period turned out to be prohibited by reason of having felony convictions.

Mr. CONYERS. What was that percentage?

Mr. DAVIS. About 3 percent. Now, this of course, if you extend this nationally, it does not sound like much, but if you apply it against 2,400,000 handguns; it does mean a very lot of felons are buying handguns around the country.

Eventually, going to the U.S. attorney's office in that area and reviewing the felony convictions, we determined some were not properly represented by counsel at the time of conviction, the time redemption or sale. I should say that 2 of the 5; I will back up, that we would institute Federal prosecution against 27 of those 68 people.

Now, it would be interesting for the committee to know for example, while there were 5 pawnbrokers in the study, 17 of those persons eventually prosecuted acquired their guns through pawnshop

redemption or sale. I should say that 2 of the 5, I will back up, that of those 5 pawnshops, 17 of them originated in 2 pawnshops—the felons who were prosecuted acquired their weapons in these 2 pawnshops. These 27 people purchased a total of 35 handguns. The value of statistics are such that 20 percent of these felons acquired guns that cost more than \$85; 26 percent acquired handguns valued \$50 to \$85; and 54 percent acquired handguns valued at less than \$50.

Now, we are not sure exactly what that means. Certainly more than half of them bought handguns, cheap handguns, and 26 percent of them bought, I suspect you would call medium-priced handguns, 20 percent high-priced handguns.

I might say, Mr. Chairman, in order to validate or determine if this is valid, we have instituted a similar project in the city of Des Moines, Iowa, and since we have reached that point where publicity as to the location makes no difference, we picked Des Moines because it is a city of about the same population as Greenville, S.C., and, of course, we think its location would give some added validity.

We have in Des Moines, we were checking 15 dealers' records, we know that there were 2,300 forms, transaction forms in the 13-month period in this case so that we already know for example, in Des Moines they only sell about 50 percent of the number of guns they do in Greenville, S.C., and we will certainly advise the committee of the final results of the survey.

Mr. CONYERS. When will it be concluded?

Mr. KEATHLEY. We are preparing the FBI name check now. They are in process of moving their records and we will not be able to submit these before September, so it will be a little bit later in the year.

Mr. CONYERS. That is a 6-month study, too?

Mr. KEATHLEY. No, sir; it is a 13-month period. We attempted to get the same number of gun sales in Des Moines as we did in Greenville and it took 13 months to get the same number as would come up in 6 months in Greenville.

Mr. DAVIS. I might point out, Mr. Chairman, in furthering our efforts to try to eliminate the source of guns from South Carolina to the Northeastern States, that we did conduct a very extensive undercover operation in South Carolina which resulted in the arrest of 8 firearms dealers and the arrests of 11 people, the other 3 being employees in the stores in question, so that we know, for example, that the South Carolina Legislature is actively considering additional gun control laws in that State and we are hoping to have some of our people appear before the South Carolina Legislature so we feel with these various activities that maybe we will have some preventive effect in that State as a source of handguns.

I mentioned the multiple sales program previously and there has been some publicity concerning it but if the committee would care to, I have here some packets of the kind of information we send the firearms dealers. Included in that is a form we have prepared for them to be posted on the premises and they very clearly say the multiple sale of handguns must be reported to the Bureau. In there also are some forms to be used in reporting, et cetera.

Now, since this went into effect on July 1, we really do not have a great deal of experience but we did make a survey in 11 cities to determine for the first 10 days in July, to determine what was going on, for example, in Washington, D.C., we had received five reports of multiple sales. One of those reports involved a sale of seven handguns and four of them of two handguns.

New York—the city of New York, no report of sales. Los Angeles has reported seven cases of multiple sales of handguns, six of those involved the sale of two handguns, one of three. The city of Chicago, we have a report from there of 17 multiple sales, 14 involving the sale of 2 handguns, 1 of 4 handguns, and 2 of 3 handguns.

Philadelphia, Detroit, no reported sales. San Francisco, six. All six involving the sale of two handguns to the same individual. Boston, none; Saint Louis, 11 in which 7 of them involve 2 sales; and Dallas, 5, 4 involving 2 handguns, 1 involving 3; and finally, Pittsburgh, 2, involving the sale of 2 handguns.

This may be very interesting to show the implications when our agents interviewed one of the individuals, one in Washington, D.C., who had bought seven handguns. He was advised of his constitutional rights and then he admitted illegally selling these guns and a criminal case is being prepared against him.

We think this illustrates very quickly the effectiveness of the regulations as to reporting of multiple sales. Very frankly, we had just assumed it would discourage them altogether. Obviously, there is no problem with persons who have a legitimate need.

Mr. Chairman, also we have introduced what we call a significant criminal program and by this, we have identified those persons, working with State and local police in a community, who are considered to be actively involved in criminal activities and represent a threat to public safety in that community.

Through this program, we have identified 1,073 people who represent threats to their community and who are reputed to be using firearms or explosives in the conduct of their criminal activities and this program was introduced on November 1, 1974, and for that we have, of the 1,073, we have arrested and recommended for prosecution a figure of 427.

Another area, Mr. Chairman, that we have become involved in is what we call our firearms security program. Now, in this particular program, through a public education type program, we are attempting to encourage the private owners of handguns, of firearms, of any firearms, to take proper care of them; in other words, that they should be kept under lock and key and out of sight, if possible; that ammunition should not be stored with the gun itself; that the serial number and other identifying marks on the gun should be recorded and placed with other important papers and certainly, very importantly that if the firearm is stolen, that it is reported to the State or local authorities.

On the board there is a poster that we have, we are using in connection with this program, the theme being your stolen gun threatens everyone. We also have some TV spots, one in which I appear and two in which Chuck Connors, the actor, appears and they are presently being released throughout the country.

With the theme, it is with proper responsibility for safe and secure storage of firearms by private owners.

We hope that this will have some impact toward reducing the number of guns stolen from private individuals because such guns are very attractive to criminals in that they cannot be successfully traced and we obviously feel that the more effective we become in enforcing the Federal gun laws, closing legal sources of guns to individuals, that they are more than likely to turn to theft as a source, so we hope to head this off.

Mr. McCLORY. Would the Chairman permit a question at this point?

Mr. CONYERS. Of course.

Mr. McCLORY. There are substantial thefts or losses which occur before the guns even get to the hands of the dealers, it is my recollection. The manufacturer loses guns, either in the plant or in shipment or something like that.

Is there any requirement to report those losses to you?

Mr. DAVIS. No, sir, there is no legal requirement that they do; however, we have asked cooperation of carriers to report voluntarily and I must say we have had a very good response to that.

We do think that through our interstate theft program and the efforts of the manufacturers and carriers that this has been reduced substantially. For example, I am informed that Colt Firearms now ships firearms in special containers. They are taken to an airport for example with security and when they are received at the other end the shipment is guarded.

For example, United Parcel Service has installed magnometers at their places so that the employees will not remove firearms, so I think that these efforts are having a salutary effect.

Mr. McCLORY. If we require the reporting of loss or stolen firearms in the way we compile with regard to stolen automobiles, it would greatly facilitate the tracing operation would it not?

Mr. DAVIS. Yes, sir.

Mr. McCLORY. In other words, with respect to crime committed with a stolen firearm, you would have immediate access to the information as to where that was last, the last owner of it?

Mr. DAVIS. Yes, sir, very much. Of course, there are about 100,000 firearms stolen from private owners each year and, of course, the net effect of this over a period of time is a very large number and there is another aspect that will help here.

Many times a criminal will arm himself with a stolen firearm. If this theft is reported by the police or to the police or to us and this is entered into the NCIC, National Criminal Information Center, then if that person is apprehended for possession of a stolen weapon, he would be detained and perhaps prosecuted, even before he would have a chance to commit a crime with it, so it would be helpful and I am sure you are aware there is such a requirement with respect to the theft of explosives. The loss or theft must be reported within 24 hours.

Mr. McCLORY. That would be beneficial to the law abiding citizens. As a matter of fact, it would facilitate for getting a return of his stolen weapon.

Mr. DAVIS. Yes, sir, and we very frequently recover stolen weapons and return them to their owners.

A few months ago there was a theft of a collection of guns in Tennessee and they were recovered and returned to the owner and it was quite a valuable collection and he was quite pleased.

The reporting would certainly be important not only in the Federal area but certainly for the State and local authorities too.

Mr. McCLORY. Thank you.

Mr. DAVIS. I thought, then Mr. Chairman, at this point, I would update the committee on project identification and since this has just very recently been consolidated, we do not have a chart.

I will for the purpose of the record, remind the committee that we have conducted project identification in four phases.

Phase 1 included New York, Atlanta, Detroit, and New Orleans.

Phase 2 involved Dallas, Denver, Kansas City, and Oakland. Phase 3 the Miami-Dade County area, Minneapolis-St. Paul area, Philadelphia, and Seattle; phase 4 included Charlotte, North Carolina, and Louisville, Los Angeles, and Boston.

Mr. CONYERS. One of our colleagues, who was otherwise engaged this morning, has now arrived, and since the House is in session we know that she has a very busy schedule. I wonder if you would be kind enough to permit us to hear her testimony at this point, before we resume with your testimony.

Mr. DAVIS. Fine, Mr. Chairman.

Mr. CONYERS. Thank you very much.

I would like to invite our colleague, Mrs. Virginia Smith of Nebraska to join the subcommittee. We understand she was in conference with the President of the United States this morning so that she was excusably detained from appearing before the subcommittee at the proper time.

We are delighted to have you with us and appreciate the fact that you submitted your testimony to the subcommittee in advance. We will enter it in the record at this point, which will permit you to proceed in your own way.

[The testimony of Hon. Virginia Smith follows:]

TESTIMONY OF HON. VIRGINIA SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mrs. SMITH. This is very kind of you. I assure you I was at the White House this morning and I solicit your forgiveness for being late.

I assure you too, I was not the only one there, I was one of a large group but it was a privilege to be there and it is a privilege to have this opportunity to present my testimony before you. I know how many pressures you are under and I will summarize it briefly.

I will open by telling you I represent 61 counties in western Nebraska, the population density is low in our part of the country, less than 20 persons per square mile in most of our counties. We have lots of wide, open spaces. The crime rate is below average, the unemployment rate is low, the longevity rate is high.

These attributes, plus a spirit of neighborliness make this a very fine place to live and I know you all live in very fine places too but

perhaps this outdoor atmosphere makes us particularly interested in keeping the liberty of owning our firearms. Owning a gun is not regarded as a possession of a weapon with which to gain advantage or inflict injury upon another.

Guns are regarded in our area as equipment for specific purposes. They are considered much in the same category as the ownership of golf clubs, tennis rackets, fishing equipment, et cetera. Just as this type of equipment is used for participation in wholesome activities, so are guns used for hunting, target practice, skeet shooting and on rare occasions, for protection and self defense.

Now, the majority of the people in Nebraska do know how to use their guns safely. I have attended meetings of the rifle clubs and I know their programs for training young people to use guns safely and I want you to know there is a tremendous interest in my district in this matter of gun control.

I have had more letters on that one specific subject than on any other one specific subject and I have yet to have one letter from anybody who favored gun control. I have had resolutions from organizations, I have had petitions, just yesterday afternoon, my staff had 184 signers for just one petition which came in from one community.

Now, I have added, and I hope you will include it in the record, testimony from Mr. Wood who is a longtime county attorney and who is on the Nebraska Region 20 Crime Commission. He points out very emphatically his belief that guns do not cause crimes, that it is people and that what we need is stiffer penalties for crime committed with a gun.

Also I have testimony from Glen Fiebig who is the past State president of our Nebraska rifle clubs.

I do appreciate this chance.

Mr. CONYERS. Is he for or against?

Mrs. SMITH. They are both strongly against any kind of firearm regulation. In fact, I could read you hundreds of testimonies from my district, all against regulation of firearms.

With this, I will thank you for the privilege of coming and leave my testimony with you.

Mr. CONYERS. Well, thank you very much for appearing. We would be happy to consider the inclusion of the additional statement you referred to.

Might I just ask you, Mrs. Smith, is it your view that this subcommittee should do anything at all about the question of firearm regulations or may I infer that you are satisfied with the legislation presently existing?

Mrs. SMITH. In our district, we are satisfied with the legislation that presently exists and our people think we should have no further control. Of course, we are as concerned about crime prevention as anyone else but we do not think this is an avenue to crime prevention.

We think that stiffer penalties and stricter penalties and mandatory sentences for crimes committed with the gun is the right approach, not banning firearms.

Mr. CONYERS. Well, what if the committee in its judgment were to consider methods of improving firearms control short of banning

firearms, to take into consideration problems that exist in the United States that may, in fact, be far different from those that you have reported in Nebraska?

Mrs. SMITH. I recognize that our country is vastly different in different areas.

Mr. CONYERS. Would legislation of that sort be against your interests and perhaps support?

Mrs. SMITH. No, I think it would not gain my support because I represent my district and in my district, we do not feel that this is the answer but I understand that you have many, many facets to consider.

Mr. CONYERS. Mr. McClory?

Mr. McCLORY. Thank you. Thank you, Mrs. Smith, for your statement which I have had the opportunity to go over and also the supplementary material which you furnished to the committee.

I judge from what you say here this morning, since you do have an educational program and you try to train people with respect to use of firearms, that this sort of training period is important as far as possession and use of the firearms are concerned.

Mrs. SMITH. We think it is a very constructive thing in our area. Now, this is done by our rifle clubs, it is no government or school program.

Mr. McCLORY. Now, I notice in the President's message on crime, it is a very useful document, he made reference to the fact that a waiting period would be in order. In other words, perhaps check out that the person purchasing the gun is not a minor, not a dope addict or not a felon and I would judge that such a requirement would be consistent with this business of having qualified people owning and using firearms.

Mrs. SMITH. Well, yes; I could see something to that but with 213 million people you start a tremendous regulatory program when you proceed to do this.

Mr. McCLORY. For instance, if the Federal Government would provide some kind of guideline or some kind of direction which would enable Nebraska to handle this subject that would be more compatible?

Mrs. SMITH. Indeed it would.

Mr. McCLORY. And the President also made reference to the so-called Saturday night specials and as you know, in the existing law, we prohibit the importation of the Saturday night specials which is referred to as a nonsporting type of weapon and I know sportsmen and hunters do not use this weapon and they seem to feel in general agreement that it is perfectly valid to prohibit the importation.

Now, would you not also feel that since we prohibit that gun from being imported that it would also be consistent to prohibit the importation of parts which enable this sort of loophole in the law, enables the domestic concerns to assemble the gun here and then market the same thing that we prohibit from being imported as a completed weapon?

Mrs. SMITH. My understanding—and I am not a specialist—is that people who want to commit crimes can make these guns.

Mr. McCLORY. But you do not support legalizing the nonsporting type weapon?

Mrs. SMITH. No.

Mr. McCLODY. Well, I think I understand your position and I thank you very much.

Mr. CONYERS. There may be just a few more members that might want to question you.

Mr. Hughes of New Jersey?

Mr. HUGHES. Thank you, Mr. Chairman.

I would just like to thank the gentlelady and although I did not hear the statement, I did read the statement and obviously, the problems in Nebraska are a lot different from the problems of New York City, New Jersey, and other urban centers.

Do you have any data that would indicate just what the crime rate is, particularly violent crime rate as it relates to the use of handguns in connection with those offenses in Nebraska?

Mrs. SMITH. I do not have but it would be very easy for me to get it and supply it for you. I do know we have a low crime rate but I do not have the details.

Mr. HUGHES. It might be interesting to see what has occurred in Nebraska.

Mrs. SMITH. We will get it to you.

Mr. HUGHES. I do not think that one of the things you are suggesting, namely mandatory sentences, would help in dealing with crime problems. I do not know about Nebraska, but in New Jersey, we cannot house at the present time those that have committed the homicides. Too often we have paroled prisoners because we do not have the facilities to house those that have committed the violent offenses. I just wonder, is that a problem in Nebraska?

Do you have adequate penal institutions?

Mrs. SMITH. That does not seem to be a problem in Nebraska but our feeling out there is if we had mandatory sentences, it would be a real deterrent in helping prohibit crimes with guns.

Mr. HUGHES. Do you know how the judiciary in Nebraska feels about the concept of mandatory sentences?

Mrs. SMITH. I could not say that I specifically know. I said before you came in that I have had no letters from people who favored gun control, none whatever.

Mr. HUGHES. I must say that in some areas in particular, the judiciary has not directed itself to this problem. Too often it has been too inflexible in the sentencing processes. It may very well be that the mandatory sentence is one of the alternatives that I would consider.

I am also interested in your suggesting that the Gun Control Act of 1968 has not been totally effective. I am the first to admit that, and I wonder if we could not do more to improve upon the fact, improve on that legislation.

One of the things I am concerned about is the inability to trace weapons down the line. For instance, when the gun comes into the country, we keep a record of that. When it is sold by the manufacturer to the wholesaler, and then in turn to the retailer that record is kept to the first purchaser. But after the first purchaser there is no record on subsequent sales. Would you think that would be one way perhaps that we could improve upon the 1968 gun control legislation?

Mrs. SMITH. Well our people are very opposed to this business of registering firearms. This is just creating another tremendous bureauc-

racy that I think as you say is very difficult to implement and carry out and probably to people who want to commit crimes will get the guns without going through this process anyway.

Mr. HUGHES. We are talking about tracing. One of the problems that law enforcement officials often experience is the inability to be able to trace a weapon. We do have this whole body of data that has been housed by the wholesalers and retailers with no central location. We have no way of trying to trace a weapon beyond the first purchaser down the line. One of the things you have to establish in a court of law is quite often the ownership or possession of a weapon. To tie in a chain of custody for instance, is one area and it is also an assist in trying to detect one who has committed an offense and it is very helpful often for a police officer, a prosecutor to determine who the last person was to have a weapon to be able to trace it back.

Now don't you feel that that would be just an added safeguard that we could give to law enforcement people, an added tool, in trying to detect those that have committed offenses?

Mrs. SMITH. Would you think of extending this to rifles and other types of guns used in sporting activities?

Mr. HUGHES. No, I am concerned about handguns. Handguns are the ones that really create the problem for law enforcement people. They are concealable.

Mrs. SMITH. I can see there is a problem in connection with that.

Mr. HUGHES. It is often very difficult for a prosecutor to be able to determine where a weapon really came from. Offenses are not solved because of the inability to trace a weapon back to the offender.

Well thank you very much. I appreciate your testimony.

Mr. CONYERS. We have Mr. Ashbrook of Ohio who may wish to question you.

Mr. ASHBROOK. One question, Mr. Chairman.

You indicated your concern for legislation which would have an affect in Nebraska, where you testified you do not believe it is needed but still expressed a concern for other areas, where it may be needed.

Now, Attorney General Levy has suggested that possibly we have legislation of a national scope that would only have application in specific high crime or high density crime areas.

I assume, if it could be written in that way, it would probably apply to cities like Cleveland and New York but would probably not apply to Nebraska.

Would legislation of that type come closer to meeting your approval?

Mrs. SMITH. I should think it would be a more practical approach, yes.

Mr. ASHBROOK. Thank you Mr. Chairman.

Mrs. SMITH. Thank you, Mr. Ashbrook.

Mr. CONYERS. Is Crawford, Nebraska, in your district?

Mrs. SMITH. Yes, it is right on the Dakota line.

Mr. CONYERS. I would just like to show you a letter from Mrs. Sue Sanders of Crawford, which happens to at least be one indication that there is something less than total agreement for the position that you have articulated.

I do not know if you received a copy of that letter or not.

Mrs. SMITH. Well, it is probably in my office. I do know this lady, yes.

Mr. CONYERS. I do not raise this to contradict you, but it was brought to my attention by staff and I just bring it to your attention.

Let me ask you if I might, and I realize that this is our responsibility more than yours, but I would like to get an idea of whether or not the crime rate is increasing in rural and farm areas like Nebraska, as it is across the country.

It may not be spirited like in Detroit, Atlanta, and New York but I would be interested in knowing if there is an increase in crime and whether there is an acceleration in the number of reported gun crimes?

Mrs. SMITH. I would be very glad to get that information for you.

Mr. CONYERS. Do you have any idea of what those figures might indicate?

Mrs. SMITH. I know that we have a low crime rate in our State but I could not give you specific information.

Mr. CONYERS. Would you be surprised if you found out or if we find out when we do our work as well that those rates may be increasing?

Mrs. SMITH. No I would not. I suspect they are increasing everywhere.

Mr. CONYERS. Thank you very very much for this discussion. We enjoy your coming before us.

Mrs. SMITH. Thank you.

[The prepared statement of Hon. Virginia Smith follows:]

STATEMENT BY HON. VIRGINIA SMITH, REPRESENTATIVE, THIRD DISTRICT OF NEBRASKA

Mr. Chairman, Members of the Subcommittee; thank you for this opportunity to come before you during these important hearings on gun control.

I represent 61 counties in Western Nebraska. The population density is low—in most counties, less than twenty people per square mile. We have lots of wide open spaces, but we do not live in a vacuum. The crime rate is below average; the unemployment rate is low, and the longevity rate is high. There is an abundance of clean air and it is a healthy place to live and work. These attributes, plus the genuine spirit of neighborliness which prevails, give us many qualities of the good life.

Personal freedom flourishes in such a climate. The people are proud of their homes, their churches, their schools, their relationship with others and a free and easy life style. There is healthy respect for life, liberty and the pursuit of happiness.

Liberty to us includes the right to own and use firearms in safe and legitimate ways. Owning a gun is not regarded as the possession of a weapon with which to gain advantage or inflict injury upon another. Guns are regarded as equipment for specific purposes. They are considered much in the same category as the ownership of golf clubs, tennis racquets, fishing equipment and so forth. Just as this type of equipment is used for participation in wholesome activities, so are guns used for hunting, target practice, skeet shooting, and on rare occasions—protection and self-defense.

The majority of Nebraska people know how to use their guns safely. They are aware of the dangers of carelessness and misuse. They accept these risks as a condition of responsible ownership. Fortunately, those with criminal intent are a very small minority. The overwhelming majority of the gun owners are decent, law-abiding citizens who have no intention of doing anything illegal with their firearms.

In extolling the virtues of the District I represent, I do not propose to say that we are an island of idealism. I know of other Districts, States and geographic areas where the crime rate is just as low or lower and where responsible firearms ownership is just as high.

What I am saying is this—only a minute number of the firearms in this country are misused and are involved in the commission of crimes. It all comes

down to the character of the people who use the firearms, be they long guns, shot guns, pistols or "Saturday Night Specials."

We need, therefore, to focus on the people who use firearms in the commission of crimes and not on the firearms themselves. In repeating the statement, "We need crime control, not gun control," I am not saying anything new. I am certain this Subcommittee has heard variations on this theme from numerous spokesmen during these hearings. But in saying it again, I hope to add emphasis to what many of us feel should be the thrust of these hearings—control the criminal, not the guns.

Permit me to mention at this point, Mr. Chairman, that in connection with my remarks, I am filing statements from residents in my District who are well acquainted with crime prevention and crime control, as well as the use of firearms for legitimate purposes.

One of these is Attorney J. D. Wood, Jr., of McCook, Nebraska, who served fourteen years as the prosecuting attorney for Red Willow County, and who is now a member of the Nebraska Regional Twenty Crime Commission. In these capacities, he has worked closely with law enforcement at the State, County and city levels. The other statement is from Glen A. Fiebig, Alliance, Nebraska, former President of the Nebraska State Rifle and Pistol Association, and currently Secretary of the Alliance Rifle and Pistol Club.

Attorney Wood makes some excellent points in his statement which came to me in letter form. I urge the members of the Subcommittee to read both his letter and Mr. Fiebig's statement. What they say should be given thoughtful consideration during these deliberations on gun control. Attorney Wood feels the most effective criminal laws are directed to the prohibition of undesirable conduct, rather than toward the prohibition of the instrumentalities by which criminal acts are committed. It is his contention that prohibitory and regulatory laws concerning firearms are "entirely ineffective" because the whole population is affected by laws of this kind, and any attempt at enforcement is diluted because of the broad application of the law, when it should be confined to the individuals who have committed or intend to commit criminal acts. You will note that Mr. Fiebig feels that the 1968 Gun Control Act failed to live up to its promises to cut down on gun-related crimes and accidents.

Mr. Chairman, you have some 40-60 bills pending before this Subcommittee. They address themselves to all aspects of gun ownership and gun-related crimes. There are those that would restrict ownership; others to outlaw certain guns; still others requiring licensing and registration. You also have bills which would serve to deal forthrightly with the people who use guns in committing criminal acts. They would impose stiff mandatory sentences for those convicted of a felony while using a gun. Under the terms of some of these bills, there would be no probation, parole or suspended sentences. The convicted felon would be faced with a long prison sentence for his misdeed.

This is the kind of deterrent we need. Facing a long term in prison with no chance of probation or parole, would cause anyone with criminal intent to think long and hard about using a gun to carry out a crime. We know we cannot keep the guns out of the hands of criminals. If all guns are banned and confiscated, the criminal element in our society would find some way to get firearms. But if they face conviction and long-term sentences for misusing a firearm, crime would undoubtedly be reduced.

Here again, Mr. Chairman, I think what Attorney J. D. Wood has to say is important because of his experience in the prosecution of law-breakers. He feels that the most effective deterrent to criminal conduct is prompt and vigorous prosecution, followed by a sentence sufficiently severe to both punish the offender and to deter others contemplating similar conduct. He recommends a mandatory prison sentence of not less than ten years for those who use any firearm in the commission of a crime of violence. In addition, he favors the death penalty for premeditated murder or a killing during the commission of a robbery.

This Subcommittee is obligated to consider all of the bills before you and the statements of their supporters. In your deliberations to come forward with legislation which will aid in the reduction of crime in America, it is my sincere recommendation that you do not penalize the multitudes for the sins of the few; that you do not infringe upon the rights of law-abiding citizens in order to curb the lawbreaker; that you concentrate on criminal control and not gun control.

Mr. Chairman, as I mentioned in my remarks, I want to file the statement of Wood and Mr. Fiebig. They make the same points I do, but much more

eloquently and authoritatively. They speak from experience so their observations and recommendations bear close attention. Let me emphasize, however, this is the viewpoint of the majority of the people in my District as I perceive it on the basis of the mail I have received on the issue and the personal conversations I have had with hundreds of citizens everywhere I have gone in the Third District.

Thank you for your courtesy in hearing me today and for considering the thoughts my constituents and I have shared with you. We all seek the same goal—the reduction of crime in the United States.

RUSSELL, COLFER, LYONS & WOOD,
McCook, Nebr., May 2, 1975.

Congresswoman VIRGINIA SMITH,
Longworth Building,
Washington, D.C.

DEAR MRS. SMITH: Thank you for your letter of April 29, regarding the gun control issue now pending before the Subcommittee on Crime. I will very much appreciate your presenting my statement on this issue to the subcommittee.

I am deeply interested in effective crime prevention and crime control. I was the prosecuting attorney in Red Willow County, Nebraska for 14 years and resigned that office January 1, 1973. I am a member of the Nebraska Region 20 Crime Commission, and I have served on the McCook, Nebraska, Civil Service Commission from its inception in 1956, to the present. Among other duties, the Civil Service Commission is responsible for the administration of the city police department. For many years I have worked closely with law enforcement at the state, county and city levels, and I feel that I am qualified to speak knowledgeably on the subject of crime prevention, crime control, and firearms regulation as it affects this problem.

Generally, the most effective criminal laws are directed to the prohibition of undesirable conduct, rather than toward the prohibition or regulation of the instrumentalities by which criminal acts are committed. From a law enforcement standpoint, prohibitory or regulatory laws concerning firearms would be almost entirely ineffective in preventing or controlling criminal conduct. The reason is that the whole general population is affected by such laws, and any attempt at enforcement is therefore diluted because of the broad application of the law, unconfined to that particular number of individuals who have committed or intend to commit criminal acts. Enforcement of such laws requires effort to be directed against every individual in the population, and the very broadness of such an effort prevents its effective application against the criminal. I know that some enforcement agencies are of the opinion that prohibition or regulation of firearms would give them another tool to use against the criminal. In essence, this approach means that a weak or even nonexistent case against a prospective defendant could be bolstered by an additional charge if he used a prohibited or unregistered firearm. In my opinion, such tactics are improper and ineffective in the administration of criminal justice, and are indefensible in a free society. This same thing has been done by the IRS in prosecuting those connected with organized crime for income tax evasion where nothing else could be found with which to charge them—to select a defendant in advance and then to attempt to find some infraction with which he could be charged is the exact opposite of good enforcement practice. I think that we are in real danger of having enacted such a myriad of regulatory and prohibitory laws that almost any citizen can be charged with the commission of an offense of some sort. Such a situation engenders a general and nondiscriminating disrespect for all laws and is destructive of voluntary compliance with the rules of society.

My experience is that the most effective deterrent to criminal conduct is prompt and vigorous prosecution, followed by a sentence sufficiently severe to both punish the offender and to deter others contemplating similar conduct. Too much emphasis has been placed upon understanding and rehabilitating the offender. Indiscriminate leniency and probation have encouraged continuing lawless conduct; for example, the Lindberg Law was effective in reducing the incidence of kidnapping. Although I do not advocate harsh or oppressive treatment of criminals, I am of the strong opinion that the rights of society have been too much subordinated to the interests of the convicted individual defendant.

Generally, I feel that the regulation of criminal conduct should be a matter for legislative enactment by the several states. However, should this Subcommittee find that federal legislation is necessary, I would propose that strong sanctions be imposed for the commission of substantive crimes. Since we are considering the specific area of firearms control, I propose that a mandatory prison sentence be provided for the use of any firearm in the commission of a crime of violence. Such imprisonment should be for a term of not less than 10 years, with parole during that term prohibited. In addition, I favor the death penalty for premeditated murder or a killing during the perpetration of a robbery. These sanctions if rigorously applied would, I am sure, have a dramatic impact on the incidence of violent crime and would be far more effective than prohibiting or regulating the possession of firearms; in fact, I doubt that further prohibition or regulation of firearms, whether they be pistols, rifles or shotguns, would have any appreciable effect on the commission of crimes of violence. This has been our experience with the Federal Firearms Act of 1968, which has been totally ineffective. This act has, however, served as an irritant to the public generally. To be effective in any degree as deterrent to crime, the prohibition of firearms would have to be total and rigorously enforced against every citizen in the country, and I hope that such action is not contemplated by this Subcommittee. In my opinion, even total prohibition of firearms would be ineffective as a crime control measure since it is aimed at things rather than conduct.

Respectfully yours,

J. D. Wood.

STATEMENT REGARDING GUN CONTROL LEGISLATION; VIEWPOINT OF RESIDENTS OF ALLIANCE, NEBR.

Alliance, Nebraska, is a community of approximately 8,000 persons. It is located in the Western portion of the state, near the Nebraska-Wyoming border. It is basically a farm-ranch community but has some overlying influences from the Burlington Northern Railroad and from 2 small to medium sized manufacturing plants.

The general feeling we believe we sense in Alliance, Nebraska, is one of opposition to any additional gun control legislation. The 1968 Gun Control Act was passed with promises that it would cut down on gun related crimes and accidents. It has not. Members of the community who supported the gun control idea at that time no longer do. The community, being less than 100 miles from Wounded Knee, South Dakota, was incensed by the incident wherein one Robert Onco, an American Indian Movement sympathizer, was pictured by the national press in jubilant possession of an obviously illegal Russian made fully automatic rifle and nothing, from a practical standpoint, was done about it. Another gun related assault, well publicized in the community, by a felon with a wholly illegal pistol, went uninvestigated and unpunished by the ATF and the Federal courts.

The general feeling is that the 1968 Gun Control Act did not deter criminals and did work to the detriment of the ordinary, working class Alliance resident. One substantial reason for this feeling is that the ordinary person in this community cannot purchase guns or ammunition in Denver, Cheyenne or Rapid City, all those cities being considerably closer to Alliance than Omaha and Lincoln, and all being used by Alliance citizens for shopping centers.

Handguns are not generally feared or hated in Alliance and its trade territory. Hunting deer with handguns is legal and is practiced by local residents to a degree. An active pistol club is recognized and well thought of by the residents of this town. There is no general agreement as to the exact definition of a so called "Saturday Night Special" handgun and no appreciable feeling that even cheap, short barreled handguns should be outlawed. There appears to be no community crime problem involving that type of gun.

There exists a definite feeling that a citizen should be allowed to own a handgun for defensive purposes if he wants to. There is expression of the idea that the average citizen, if properly equipped and trained with a handgun, would discourage crime. There exist some plans for a police or gun club sponsored training course in the use of handguns, free to the public with the emphasis on women.

It is the feeling of the undersigned that the community of Alliance, Nebraska, is concerned about crime on the local, state and national levels and would

welcome some workable solution, but generally does not support restrictive gun legislation as a workable, or even sensible, solution to the crime problem.

The above reflects the viewpoint and the assessment of the community viewpoint by the undersigned and is his personal viewpoint only.

Mr. CONYERS. We would now like to recall our friends from ATF: Mr. Davis, Mr. Dessler, and Mr. Keathley.

**TESTIMONY OF REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL,
TOBACCO, AND FIREARMS, DEPARTMENT OF THE TREASURY—
Resumed**

Mr. DAVIS. Mr. Chairman, in the previous testimony this morning, I indicated we had instituted Project Identification in 16 major metropolitan areas throughout the United States, and identified them, and I think the committee would be interested in some of the overall figures that relate to this.

For example, out of those 16 cities, to date, there have been submitted for tracing 10,617 guns used in crimes in those cities. Now, out of this, we were able to successfully trace to the first purchaser 7,815 or 74 percent.

We feel that is a very good figure in terms of tracing.

Mr. CONYERS. Is this, sir a specific program of ATF?

Mr. DAVIS. I am sorry this chart does not have any relevance to what I am talking about at the moment. I do hope to sort of sum up, if I can, in just a few minutes.

Mr. CONYERS. Fine.

Mr. DAVIS. Now for the breakdown of these guns that were submitted to us, as being used in crime in these 16 cities for the purpose of our, for this project only and as a measure, we classified Saturday night specials in a way that included three factors: one, \$50 or less in value; the barrel length, 3 inches or less; and .32 caliber or less—and if a weapon met all three of these categories, we classified it as a Saturday night special only for the purpose of this project.

So, I might say that we feel this is a very strict definition, probably one of the strictest measures we have seen, but we did want to be rather conservative in this project.

Now, the class of guns that we broke down to three classes, in other words, those that cost \$10 or more, those that cost \$50 to \$100, and those that cost less than \$50, these are all retail prices, so the breakdown was 26 percent of those guns that were submitted to us for tracing were valued at more than \$100; that 18 percent were valued between \$50 and \$100, and that 56 percent were valued at less than \$50.

It might be interesting for the committee to know the kinds of guns used in crime in these major cities. For example revolvers accounted for 76 percent of all those guns submitted to us for tracing by the police, and pistols accounted for 24 percent of the total.

About 71 percent had a barrel length of 3 inches or less, 29 percent over 3 inches. The caliber of the weapons: 61 percent of these guns were .32 caliber or less and 39 percent of them were over .32 caliber.

So to take then the total criteria that a total of 3,486 guns, 45 percent of all of those that were successfully traced could be categorized as Saturday night specials for the purpose of this project, again with the caveat, this is a very strict definition.

Mr. CONYERS. Mr. Davis, during what period of time did this tracing activity take place?

Mr. DAVIS. Yes, sir, we took them, four cities at a time, and I think generally the time period was about 3 months, 3 to 6 months in each city.

Mr. CONYERS. In 1973 or 1974?

Mr. DAVIS. It started in 1974.

Mr. CONYERS. And it covered major cities of the United States?

Mr. DAVIS. Yes, sir; 16 major metropolitan areas located geographically throughout the United States, so it gives a very good cross section when we think of gun usage in crimes.

Mr. CONYERS. Do we have a summary of that report in our record? Staff indicated we do.

Mr. DAVIS. This is the final summary. We have just presented the last 4 of the 16 cities and we are just now at the point of consolidating all of the figures.

I might point out to the committee, as we proceed, we hope we have made our surveys more sophisticated so that in some cases—in 8 cities, I believe, it was for at least not the first 4—we did consider pawnshops as a separate category but for the last 12 we did, so we have the figures on that basis so some of the figures do not run throughout but at least we think the sample is sufficiently large in every case to give a pretty accurate idea.

Mr. McCLORY. May I inquire for clarification, Mr. Davis, you are referring to the memorandum or a statement that you have. Will that be made available to the committee?

Mr. DAVIS. Yes sir. It is not ready.

Mr. McCLORY. And also may we have for our personal use reproduced copies of the charts?

Mr. DAVIS. Yes sir. We have one or two updated then, and we will get those to you.

Mr. CONYERS. Mr. Barboza, just briefly.

Mr. BARBOZA. Were the guns that were traced actually used in criminal activities?

Mr. DAVIS. Yes they were. In every case they were used. They were guns that were acquired by the police department. I suppose in some cases, for example, that there would be a gun recovered by a body in a homicide or something of that sort but in every case they were used.

Mr. ASHBROOK. I thought your testimony was that last year there were 33,000 guns traced, that 60 percent were referred to you by police departments?

Mr. DAVIS. These are two separate programs. In our general tracing program we have any law organization who wants a gun traced and we will do that. In the 33,000 we are not talking about the same time period but at least some of the 10,000 would be included in the 33,000, but in the case of Project Identification, in every case, the guns are recovered by the police.

Mr. ASHBROOK. Excuse me. Thank you.

Mr. BARBOZA. Director, there was an attempt to categorize the guns according to whether they were actually used or being carried at the time the crime was committed?

Mr. DAVIS. In the case of the 33,000 guns that we traced in 1974?

Mr. BARBOZA. I am referring to the project here. Were these guns used in crime?

Mr. KEATHLEY. All the guns in this project were seized or came into the possession of police departments as a result of crime; where they do provide us with the crime itself, we are working on a computer printout showing what the individual gun was used in.

In an instance where it was abandoned on the street or the police may not have known what crime could have been committed with it, we would have no way of getting a handle on that.

Mr. BARBOZA. Do you know if these guns were, for example, illegally possessed by a felon prior to confiscation by police or is it clear that they were used actually in crimes such as robbery, et cetera?

Mr. KEATHLEY. They are all supposed to be involved in crimes. To what degree of crime they would be involved in would be up to the individual police department which furnished us with a request for trace.

Mr. BARBOZA. The mere possession, would that be a crime?

Mr. KEATHLEY. If it were a crime locally, it could be. We did specify we wanted to trace guns which were involved in street crime.

Mr. BARBOZA. I am wondering if you know whether or not some of these guns would be more readily used in certain kinds of crime, such as street crime, where the criminal may carry a very small pistol with him at all times and use it whenever the situation might arise? In addition, can you identify those kinds of weapons purchased with a conscious intent to buy the gun, say a .38, where the individual intends to rob a pharmacy and might believe that he needs defense against an equally potent gun?

Mr. DAVIS. We will attempt to give you some kind of breakdown on these 10,000. From our general tracing program, you will recall that most of the guns used in crime or at least we traced, suspected of being used in crime, are purchased relatively recently by the individual which means to us there is an indication that the purchase was made for the purpose of committing crime; in the high percentage of the crime they are acquired so that they may be used.

Mr. GEKAS. When you say recent purchased, you mean purchased from retail license dealers?

Mr. DAVIS. Yes; we determine the date of sale from the dealer and this would be the time of the frame reference.

Mr. GEKAS. To say that a little differently, would not that mean a lot of the guns used in crime, 50 percent are less than 4 years old?

Mr. DAVIS. I do not have that figure at hand but I am fairly certain that was the indication that we have that they were about half of them were purchased within the last 4 years and then the percentage, as I recall the figures, the percentage starts high, the same year, and then as you go back in time, it starts falling off.

Mr. McCLORY. Could I interrupt, Mr. Chairman?

I notice in the previous chart there was a reference to a large number of guns, as I recall, purchased from unlicensed dealers.

Now, what about that, what about tracing those guns, what percentage of guns are purchased from unlicensed dealers?

Mr. DAVIS. Well, sir we have no real way to tell that except through projects such as our Greenville Project. This would involve a multiple purchase of guns by an individual who turns around and

sells them to other individuals without complying with the Federal law.

Oecasionally, we will, of course, make cases on these kind of individuals for violating Federal law, by selling guns without a license but we do not have any firm figures on the volume of this.

Mr. McCLORY. There are no guns going from the manufacturer to an unlicensed dealer and then being marketed, these are all, these are sales that occurred subsequent to the sale by the licensed dealer?

Mr. DAVIS. Yes, sir, that is through a licensee that can only legally sell to another licensee if it involves some interstate shipment.

Now, there is nothing to prevent a manufacturer from selling to an individual. I think, however, the practice is that they do not.

Mr. GEKAS. Mr. Davis, could we amplify a bit on that. The point is unlicensed dealers means people who have made multiple purchases from licensed dealers and then they sell them illegally, just by the fact that they are dealing with a substantial number of weapons or they cross State lines with the guns and sell them and as I read your phase 1 project report, it suggests that a large proportion of the guns in New York City came from that kind of multiple purchase by an unlicensed dealer across State lines which is a violation of the Gun Control Act and then sold on the streets of New York?

Mr. DAVIS. Yes, very much. Of course, in the case of New York, both cases in which we had made before the project and afterwards showed that there were certain dealers in South Carolina who were a source of large numbers of handguns and they were doing exactly as you described. And then of course later the cases we made through the undercover agents. At least it was evident they knew these guns were being purchased for resale.

Mr. GEKAS. Could we tie that point up by the Greenville project chart? Right there, where it says 2,047 purchasers, possible unlicensed dealers over to the right. This demonstrates the possibility of multiple purchases by an unlicensed dealer where you say 34 percent of the guns were bought by 15 percent of the total purchasers and that is just to put it, set it in concrete, the figures.

Mr. DAVIS. Yes. Now in the case of Greenville, there were 324 persons identified as having purchased 875 guns.

Now, of that four were considered to be significant unlicensed dealers. One of these, for example, had dealt in 74 firearms in the 6-month period we had tested and we have made a case against him, he pled guilty to charges of dealing without a license on June 5, 1975, then he received 5 years' probation. So, I think this very amply illustrates the activity and then when you tie that into the initial 10-day period reporting on multiple sales we have 53 instances in these 11 cities in which there was more than one gun sold to the same person.

Now, the most significant was one in the District involving a sale of seven firearms to the individual and as I indicated, we interviewed him after telling him his constitutional rights, he admitted he was in the business of reselling without a license so we think there is ample evidence that there is large-scale activity going on of this kind.

Mr. GEKAS. It is a black market of firearms across State lines that violates the 1968 Gun Control Act but is, I suppose, in large measure undetectable unless you go back and start auditing sales transactions.

Mr. DAVIS. Yes; and, of course, I should point out to the committee that there is actually nothing illegal about an individual going in and buying 50 or 100 handguns, it is quite appropriate under Federal law.

We hope that the requirement now by regulation will by reporting these multiple sales will have an impact against these unlicensed dealers.

Mr. BARBOZA. How do you intend to use the information you have collected?

Mr. DAVIS. Given the fact of our somewhat limited manpower, probably we will actually investigate only those that involve a significant number of guns. For example, in this case where the D.C. resident bought seven then we would follow up and ask if you have a legitimate purpose in this.

Mr. BARBOZA. Would you say that seven would be a significant number?

Mr. DAVIS. Of course it depends somewhat on local conditions, on manpower, what the urgency of what we are doing is at the time and things of this kind.

Mr. BARBOZA. An individual could circumvent that program, could he not, by simply buying one gun from a dealer and then going to another and subsequently going to eight or nine dealers?

Mr. DAVIS. There is no question about that. The only thing is it is our feeling that the more dealers he has to go to, the more obvious he becomes and the more time consuming but there is no question he could do that.

Mr. BARBOZA. This does tie into the issue of whether or not federally-licensed firearms dealers should be reduced in number. The committee and you might discuss some of the ways it could prevent this circumvention of the multiple sales requirement perhaps by requiring an individual, upon purchase of a firearm, to fill out some kind of notification of purchase. The form would be signed, sent to Washington, and perhaps put in a computer. That would be one method, would it not, for quickly and efficiently identifying multiple purchasers?

Mr. DAVIS. There would be no question about it and I think that the previous testimony the President's message on crime as referred to and the fact that it contained a recommendation for a waiting period.

Now, obviously, a waiting period that included, with a report say to the chief law enforcement of that area, that also included the number of guns involved, certainly I think this would act as a deterrent because the individual would be very reluctant to have the sheriff or chief of police notified that this individual was buying 10 handguns so, again, this would be an added bar.

Mr. BARBOZA. Under that structure, the dealer would be submitting the forms to the police department and there would not be any guarantee, because of maybe resources problems, that the police department would either process those forms or even notify you.

Mr. DAVIS. Our requirement that the dealer would report to us, as is presently done and then if the President's proposal on a waiting period were adopted by Congress, then you would have the two things working together and certainly, it would be an added deterrent.

Mr. BARBOZA. Those systems, the system I outlined whereby ATF is notified of every sale would be a little more foolproof, would it not?

Mr. DAVIS. Yes, I think it would and there, of course, it would be quite possible so that then you could not circumvent the provision by going to many dealers because there could be a matchup by name so that would take care of that.

Mr. BARBOZA. Mr. Chairman I had a couple of questions concerning the concealability of firearms, but I do not know if I should raise them, at this point.

Mr. CONYERS. Hold them up. Do you process forms under the new regulations of multiple sales as soon as they are received? Would, for example citizen X, who just bought 150 guns, gets a friendly visit from an ATF representative and who says, knock, knock, who is it? ATF. We want to talk to you about 150 guns you just bought from Joe's Pawnshop yesterday and he says, Look, fellows I don't want to tell you anything. What is ATF's responsibility?

Mr. DAVIS. Well, sir, we get lost. Obviously, the individual has not violated any laws. More than likely, if you have a hypothetical case, where an individual bought 150 guns, we might not even approach him but we might put him under surveillance. For example, let's assume in checking this individual, we find that he does have maybe a history of becoming engaged in criminal activity, so we have a very strong idea he is actually selling, then we probably put him under surveillance. We might introduce an undercover agent who said, I heard you have some guns and could I buy one?

Mr. GEKAS. On the waiting period for sending out notification to the chief of police of the residence of the purchaser, we have some State laws currently in effect, in California and Washington, for example, where there is such a procedure required as a matter of State law. In both California and Washington, before firearms purchase can be made, there is a waiting period, it is sent to the Central Bureau of Sacramento and to the residence of the purchaser and the final results of the project I think are very interesting. I think they show the substantial percentage of the handguns used in crime in Los Angeles and in Seattle originated within those two States, that is, the Los Angeles guns and the Oakland guns came from California, 80 percent or so, and the Seattle guns came from Washington, which shows, demonstrated at least tentatively that this waiting period and sending out of the forms is not preventing criminals from acquiring weapons.

Mr. DAVIS. I think that is an accurate statement; however, I would point to New York and Michigan. Now, if you look at the project figures, only 4 percent of the guns used in crime in New York came from the State of New York. If you look at the Detroit area, only 8 percent of the guns used in crime in Detroit came from Michigan; 19 percent from Ohio; 9 percent from Kentucky; and 9 percent from Mississippi. So I think what this points up, either a citywide or statewide waiting period is easily avoided by just going to another State.

Mr. GEKAS. If your State law is not enforced so that they will catch the illegal firearm purchaser, then you can buy your gun in that State and if you are a criminal, you do not have to worry about being caught, that seems to be the situation in California and Washington.

In Michigan and Detroit and New York City and State, however, the enforcement of those guns' programs are much more strict and efficient. Therefore it is difficult for a criminal to acquire a gun so what do they do, they go to the next most convenient source of supply which is maybe Virginia, South Carolina, Georgia; so I think that rather than inconsistent, the analysis of the comparison between New York and Detroit, Michigan and Seattle and Washington is consistent because it has to do with the type of law and the character of the enforcement of law.

Mr. DAVIS. Yes; of course, for example, the State of Pennsylvania had a waiting period, my understanding, by some legislative enactment, it is now nullified, but they had a 5-day waiting period and the form had to go to the State police. Obviously, even the mail to and from, so the waiting period became very useless under those kind of circumstances.

Mr. BARBOZA. Mr. Chairman, to build on what counsel has developed, Mr. Director, what if the subcommittee were to recommend regulations which would provide for an owner's identification card, and in addition to that, the ATF required to publish a list of cities, counties, and States which require either registration, permits to purchase, or a license to purchase, which would be distributed to all licensed dealers within a particular State so that a licensed dealer, if he were, say, a dealer just outside of Chicago, would be aware that Chicago requires a permit to purchase and registration of firearms. If a resident of the city of Chicago entered his premises with a license which indicated he was a resident of that city the dealer would be able to check the list and determine the conditions under which he could sell the gun. He would say, I cannot sell you a gun until you have secured a Chicago permit, or in the case of a city which requires registration, he would say, I can sell you a gun but I must notify the City of Chicago that you purchased it.

Would such a system of alerting dealers to sister-city requirements aid jurisdictions in enforcing their sister jurisdiction's laws?

Mr. DAVIS. Well, of course there is really two approaches here. One is the identification or I guess you could call it a permit to purchase or an identification card. Presumably it would have to carry a picture on it.

This would overcome one problem that we have presently because under our law a person identifies himself with what is a commonly accepted means of identification.

Again, to refer to Pennsylvania, because I am aware of it, they do not have a picture on the driver's license in the State of Pennsylvania, yet that is acceptable under our law so it becomes very easy for a person to sell or borrow a driver's license for the purpose of identifying himself to obtain a gun, so that then you would have a uniform system of identification which would clear up that big problem.

Now, under existing law substantially what you have indicated does exist. We are required by law to publish what we call our 603 Form each year, as we put out a supplement which contains all of the laws throughout the United States for the information of the dealers so that they can check to make sure the sale is not barred.

Mr. BARBOZA. Yes; but we must distinguish between that book of regulations and city ordinances because with a list an individual would not be required to pick up a thick book and read the statute. He would immediately know a permit is required for the city of Chicago. It would take 1 minute to make that determination. This system would not necessarily have to be combined with a licensing system because even if the licenses were issued on January 1, 1976, and the State or city enacted legislation requiring a permit system 2 months later, the license would have to be sent back, and that would be a bureaucratic nightmare. To publish a list of cities which have this particular kind of law and to supply it to dealers and say that you may not sell a gun to a person who resides outside of your city where it is prohibited by that city its laws would be of assistance to cities like Chicago where citizens buy guns in suburban communities to avoid tough city ordinances.

Mr. DAVIS. I am quite sure that we could prepare such a list under existing law and obviously under existing law, we probably could not require the dealer to have the purchaser comply with the law of the city, so to attain that kind of a system would require legislation.

Mr. CONYERS. Thank you very much. Your presentation generated a great deal of questions which may raise the specter of your having to come back one more time.

Mr. DAVIS. Well, sir, it is always a pleasure. I have my formal presentation I would assume would only take about 15 to 20 minutes longer and then, of course, I would be very happy to answer any questions the committee has.

Mr. CONYERS. As I have indicated, your testimony is based upon which these hearings have gone forward. We are really grateful to you and all of your associates in terms of the great amount of cooperation.

Mr. DAVIS. Thank you very much, Mr. Chairman. Will I continue?

Mr. CONYERS. Please do.

Mr. DAVIS. Again, this project identification summary of the 16 metropolitan areas, we have already indicated that those jurisdictions having, such as New York, having a very strict city law as well as a State law and then the area such as Michigan, where they have a very strict State law, there is clear indication that guns used in crime come from other areas.

In the case of New York, it is 20 percent. It is a very interesting thing, I think, we are getting indications for example, that both Virginia and South Carolina are sources.

Mr. GEKAS. How many from South Carolina?

Mr. DAVIS. Twenty percent and 6 percent from Virginia but we are finding that both Virginia and South Carolina are sources for guns used in crime in the northern metropolitan areas.

It is interesting that North Carolina which lies between the two and does have a State law that is strict is not a source so, again, it points out that areas where there are weaker gun laws become sources for guns in areas that have strong laws.

We have further breakdowns, in which we will provide the committee, as I have already indicated, the studies show that pawnshops

are, seem to be a major source of guns used in crime in metropolitan areas.

Just for example, to give you a quick rundown on some of them, for example in Dallas, Tex., where we have received 654 guns for tracing, 195 of them were passed through pawnshops. In Denver, where we have received 190, 63; in Kansas City, 311 received and 45 passed through pawnshops; in Oakland, 245 received and 77.

So, in other words, for the total, the total received—10,617 guns were received for tracing by the police department, 797 or 23 percent passed through pawnshops and it is also interesting to note that a large percentage of those passed through pawnshops could be classed as Saturday night specials.

Mr. GEKAS. I have just one question to clarify. The pawnshops suggests used guns but because they were traced by your project, that means that the guns that were sold were new guns, right?

Mr. DAVIS. Not necessarily, because under our requirements, a pawnshop owner must still have a transaction form when he received a gun that is pawned.

Mr. GEKAS. But was not yours traced, it went from the manufacturer through the wholesaler, through the dealer, so to get it in project I, to the point of identifying the pawnshop it would have had to have been something that originated with the manufacturer; therefore, the figures are primarily of new guns, coming from pawnshops.

Mr. DAVIS. That would be an accurate statement and, of course, most pawnshops are dealers and, of course, the license they acquire permits them not to only take guns in pawn but to deal with them.

Mr. GEKAS. Since the percentage of guns you could trace back to pawnshops suggest it would be new guns and suggests the pawnshops deal with new weapons as regular firearms dealers, that suggests also there must be substantial number of guns counting for the substantial portion of guns used in crime that are untraceable because they are used so that they may come into a pawnshop dealer and go out after a transaction form is recorded, be used in crime and come back into the tracing system but you will not be able to identify the pawnshop as the source because you will not be able to take it from the manufacturer through the distributor to the pawnshop.

Mr. DAVIS. Very accurate statement. I think it is interesting, to point out to the committee that the American official, the consular official that was kidnaped in Mexico and killed, the evidence was acquired by an ATF agent who surveyed pawnshops in a given area and found out that this individual had sold 2 guns, 1 included the murder weapon and then through a series of events we were able to show this was convincing evidence that led to the successful prosecution of the individuals who kidnapped and murdered that consular official.

Mr. GEKAS. As the Director of the Bureau, Mr. Davis, do you see any reason why pawnshops should be dealing in firearms? Perhaps I should say is there a justifiable reason why they should not be considered as legitimate firearms dealers?

Mr. DAVIS. Well, I would suspect that there are none. I think it would be very difficult to discriminate against pawnshops in terms

of dealing. Of course, we do have a different fee for pawnshops at the present time. For example, a dealer who wishes to, a pawnshop dealer who wishes to deal in guns must pay \$25 as compared to \$10 for the ordinary dealer so there is already some discrimination in this area.

Mr. CONYERS. Would there be some public purpose served or would there be some inconvenience to our citizens at large if on a legal and constitutional basis pawnshops were removed from this considerably troublesome area? Would the rights of pawnshop dealers be infringed upon? They could do everything they are doing now but the traffic, at least in handguns would be prohibited.

Mr. DAVIS. I do not have any statistics showing what part of a pawnshop business is related to guns but I am sure that it would make a somewhat small percentage of the total business they do. I do not have any idea of what the economic impact would be if they were excluded.

Mr. GEKAS. And yet a very significant quantity of the guns are traced through pawnshops so your feeling is that the small percentage of their business is causing a big percentage of the problems?

Mr. DAVIS. As I mentioned earlier, in the general project, we found that so. I think it does represent, it does present somewhat of a problem. I think I can wrap up now and—

Mr. GEKAS. Let me finish this point. It is so terribly important.

Historically, as dealing in American statutory history, pawnshops have been regulated because they are traditionally outlets for stolen guns and most all of the States require almost daily or weekly reporting which is then checked against reports of stolen guns so pawnshops have been carefully regulated because of their association with various types of criminal activities.

Mr. DAVIS. That is correct. As you know, many metropolitan police departments have pawnshop squads.

Mr. CONYERS. It is a problem that is increasingly troubling this subcommittee. There is an inordinate relationship to gun traffic and criminal activity in which guns are involved?

Mr. Barboza has some further development on this pawnshop question.

Mr. BARBOZA. Mr. Director, the Chairman has asked whether or not there would be any constitutional problems with prohibiting pawnbrokers from acquiring licenses to sell firearms?

Has there been any study of this question by the Bureau or the Justice Department?

Mr. DAVIS. There has not been specifically with respect to that but Mr. Dessler may know of some legal question.

Mr. DESSLER. We have looked into it in a general way and we have not been able to find a comparable Federal statute where a particular business has been prohibited.

Now, there are some State statutes that would prohibit types of businesses from being conducted, not pawnshops though, and there is a substantial constitutional question involved and I think that if a proper finding could be made that a particular business or type of business causes a particular problem, there would be a basis for the courts upholding the constitutionality of barring a particular

type of business but you would have to have a strong basis in a congressional record or congressional base.

Mr. BARBOZA. Do you think a basis could be found from the statistics ATF has accumulated?

Mr. DAVIS. It is possible, of course, to increase the fee to the point where it would no longer be economical.

Now, again, we may have some question as to the relationship of the fee to the other businesses, where it is really in fact a discriminatory fee, et cetera.

Mr. BARBOZA. The Senate recommended in 1968 that the fee be \$250 but it was compromised down to \$25 as you know so that has been tried.

Mr. DESSLER. The other factor that is for consideration, if you would prohibit, to what extent are you pushing the problem underground so that they might be dealing not in the open.

On the other hand—

Mr. CONYERS. You mention the pawndealers might go underground?

Mr. DESSLER. That is a possibility.

Mr. CONYERS. I think we could take care of that problem.

Mr. GEKAS. It is an enforcement problem.

Mr. DESSLER. What I am saying is, are we in a better position in enforcement ways by stringently controlling the operation, in other words, reducing the pawnshop dealers that deal by way of license fees or by complying with more compliance regulations or more control.

Mr. DAVIS. If we had the resources, for example, it would be very easy for us to require that a pawnshop be visited by an ATF representative once a month and so really, you could focus the control aspect of it more.

Mr. CONYERS. But that is all taxpayers' money just to facilitate the sale of handguns. We have found places where there are more handgun dealers licensed than liquor store licenses, both of which may be subject to some more careful scrutiny in whatever relationship that might suggest. But, you know, we have to at some point begin to question why all this convenience to people who want to buy a used handgun, especially out of pawnshops, when we know that there is no great problem in legally purchasing these weapons as it is.

In view of the fact that ATF so clearly needs additional resources, I do not see any purpose in deploying them to merely patrolling pawnshops. I mean we are going to need a congressional response to justify the case for continuing this as part of your operation in terms of firearms regulations. It should really have been done a long time ago.

Mr. GEKAS. One question suggests another so that the subcommittee might be able to deal with the constitutional question in its report should it decide to prohibit pawnshop dealers of firearms, what are the specific constitutional problems for the Federal legislature prohibiting pawnshops.

Can you take that under consideration?

Mr. DESSLER. It is a difficult question. As I say, we are not aware of any comparable statute where the Federal Government has pro-

hibited a particular type of operation within a business. It is something that is rather novel and rather new and that is why I think it presents some substantial questions which we have not been able to explore.

Mr. CONYERS. Wait a minute. You are prohibiting a lot of things. What is so new about that?

What about the police power, and the authority to regulate the health, welfare, and safety of our citizenry? Maybe it is new, I just never thought of it as being particularly novel.

The same question comes up about bombs and bazookas and anti-tank weapons; nobody is still arguing you have got a right to them. We prescribe a lot of things and businesses are restricted in the regular order of national legislation when these matters are seen to be detrimental.

We have the taxing power on one hand and we have other very large and very sensitively to be used authority, but it just does not seem without any investigation that this is novel.

You do it all the time and in dealing with city ordinances, State laws, and Federal laws.

Mr. DESSLER. I am referring to on the Federal level a Federal statute which would prohibit a particular type of business, a particular type of business to deal in a particular product.

Now that is the type. I recognize that the Federal Government does regulate businesses but I am referring to prohibiting a legitimate business from engaging in a particular activity, with respect to a particular product.

Mr. CONYERS. Narcotics, drugs, is not that an area that we regulate very, very stringently?

Mr. DESSLER. Yes, we do.

Mr. GEKAS. Firearms as a matter of fact, it is prohibited for somebody under a certain age to be a firearms dealer because there is a feeling of a relationship between the age of someone and kind of a presumptive ability to conduct the business.

Mr. DAVIS. We would be happy, Mr. Dessler I am sure would volunteer to prepare an opinion.

Mr. CONYERS. We need all of the help we can get. We realize that we are treading into some very difficult constitutional areas now. I know that is the point you are making and we think that something is in order and as you know, the more we get into the question of firearm regulation we are continually surprised. I suppose we are not to be surprised any more to find there has been very little previous study done in these areas.

Many of these questions are asked almost in the first instance when we thought they had been examined by someone somewhere before.

Mr. BARBOZA. Mr. Chairman, Mr. Davis, concerning pawnbrokers recently you instituted a new classification system for dealers, firearms' manufacturers, pawnbrokers and others. I have an ATF print dated April 22, 1975 which indicates several apparent pawnbrokers who are classified by the number of O-1 which means dealer in firearms other than destructive devices or ammunition for firearms other than destructive devices. I note that number 2-S, is a pawnbroker's classification.

I am wondering, for example why an apparent pawnbroker, Herdon's Loan Office, Los Angeles, Calif., is classified as O-1 or dealer?

Would you check into these discrepancies to determine whether the proper fees are being paid by these persons?

Mr. CONYERS. Will counsel suspend? We have an indication that a record vote is taking place on the floor so we will recess for approximately 15 minutes.

[Whereupon, the subcommittee recessed at 11:35 a.m.]

AFTER RECESS

Mr. CONYERS. The subcommittee will come to order and we will resume the testimony of our witness, Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

It may be of interest to the committee to report on a Project Identification which we instituted in the District of Columbia. We appeared before the House District Committee chaired by Mr. Diggs and he in his capacity is concerned about the crime rate in the area because of the Bicentennial Year and so we have indicated to him that we would introduce a Project Identification that is only 60 days old but at least some of the early results will be of interest.

In this are not only the Metropolitan Police Department but 10 other jurisdictions in this metropolitan area which are providing guns that they obtain, as used in street crime in the area.

So far, we have received 400 requests of guns to be traced from this area and we have completed the trace on 278. Of that 278, 212 are hand guns, 75 are rifle shotguns and starter pistols and other types of weapons. Of those that we have completed to date, about 27 percent of them meet the 3-part criteria as being Saturday night specials.

Again, I know the committee is familiar with the fact that the District of Columbia has a registration law in effect in the District and again, I think the early returns carry out the concept that in such areas, the guns come from other places.

Now, those gun that were actually seized in the District of Columbia proper, that is 187 handguns, we have traced 127 to those, 83 percent came from Virginia or Maryland where the laws are obviously not as strict. That is approximately 105 of the guns. Now, of the 127 which we have traced, 30 percent of those were used in what we would consider major crimes: Assault, robbery, murder, they included 8 murders and 15 armed robberies, so about 30 percent of those so far have been in that category. And we will give the committee written summary of that.

Mr. GEKAS. Mr. Chairman, I wonder, there are some things this subcommittee is interested in, having to do with the commission of murder, some of the arguments is crime of passion account for a substantial percentage of homicides and if possible, since it is right here in this area that you are studying, if you could take the firearms that you traced through that are involved in these serious offenses of murder and homicide and identify the percentages of crimes of passion, murders, the crimes of passion between acquaintances and relatives and then go a step further and perhaps the Metropolitan Police could do this and ascertain the percentage in which offenders and victims of prior felony convictions so that we would have some statistics to show indeed crimes of passion do occur between acquaintances, relatives and the like but that a substantial

proportion of those crimes of passion involve offenders with criminal records and victims with criminal records and if you could do that——

Mr. DAVIS. I am sure we can rely on the cooperation of the District of Columbia Police Department for this area.

Well, Mr. Chairman, earlier, this was something referred to earlier, of the over 10,000 guns that were submitted to us for tracing in our Project Identification, from 16 major cities, the street age of that number, 2,476 or two-thirds were sold after the 1968 Gun Control Act. In other words in the last 7 years so this gives the committee some concept in the age of these weapons.

If I could, Mr. Chairman, I might sort of sum up the testimony to date by referring to this chart and what we tried to do here is to visually portray all of the sources of guns that are used in crimes and this represents, in our view at least, the total picture and after talking about them then I would like to advise the committee of what we are doing, what we can do under existing law and what we are doing to try to close off these sources.

We start up here, with the source being an unscrupulous dealer where there are sales to those that are prohibited so that represents a source.

Another major source is the falsification by the purchaser, either using false identification or falsely affirming that he is not prohibited under Federal law. In this case, the dealer is not a party presumably, although he could be in some cases.

We were discussing this morning illegal sales and, of course, this is probably major source of weapons to unlicensed individuals, sold to persons in violation of Federal law.

Another area is individual sales. Here, where an individual sells to another, obviously he does not check to determine whether he is proscribed from selling and so that probably is a major source.

We have illegal manufacturing which is another source, for example, the conversion of M-1 carbines to fire automatic to M-2 carbines which is a violation of Federal law.

We have mentioned earlier pen guns that are converted and sometimes as in the case of Detroit, they had converted 1,500 of these guns to fire regular ammunition, so it can be of a considerable sized source.

Smuggling we put down to complete the picture but from all of our information, this is practically no problem because our suspicion is that it all goes the other way.

I had not mentioned our guns to Mexico program I do not think but we do know that there is a considerable traffic in firearms between the United States to Mexico and that it is very closely related to the narcotics traffic, where guns are taken down or traded or sold in exchange for narcotics.

Mr. BARBOZA. Director, has there been any cooperation between your Bureau and the Drug Enforcement Administration on this problem?

Mr. DAVIS. Yes. I might say that in our program, guns to Mexico, we are of course working with the Mexican authorities and at their request, we try to help them. They see this as a very major problem to them, so we are working with the Bureau of Customs, our sister

agency in the Treasury, and of course with DEA to the extent that there is this relationship with narcotics.

Mr. BARBOZA. How deeply involved is DEA? I am asking this question because the subcommittee has oversight of the Drug Enforcement Administration, and I was wondering if they are involved so substantially that it might be appropriate to go into it.

Mr. DAVIS. Right. They are, as you are aware, they are very active in the narcotics area and to the extent, as I say, there appears to be this relationship between the smuggling of guns with narcotics, we actively work with them and if they discover guns, they refer it to us.

Mr. CONYERS. We are very interested in that connection. I might point out that the ranking minority member of this subcommittee serves on the select committee that is currently investigating the CIA, FBI, and many of our other intelligence agencies.

Mr. DAVIS. I am afraid ATF also.

Mr. CONYERS. And we are interested in that relationship and I was just wondering, do you have any connection with the Central Intelligence Agency?

Mr. DAVIS. No, sir, we have a liaison relationship where occasionally we will exchange, they will ask us to check a name for them and it is a very tenuous relationship.

Mr. CONYERS. What about the earlier problem of the Department of Defense or our military establishment selling new model weapons to dealers within this country, which would sometimes go outside of our shores and the return to domestic commerce?

Mr. DAVIS. Yes, sir. We have, since the Gun Control Act, we work closely with the military. Unfortunately, within the first year or two after passage of the act, there were cases where military surplus, automatic weapons, for example, were not completely deactivated and they were sold as junk scrap for example, several tons of it; by reason of the way they were deactivated, they could be, several guns could be, put together.

Now, since that time, we have stopped that practice so that that no longer remains a problem.

Mr. CONYERS. Should we have any intelligence about the military and their release of any kind of weapons whatsoever that may get back into commerce?

Mr. DAVIS. Sir, I am sure the committee is aware of the civilian marksmanship program carried on by the Department of Defense.

Now, I know that at one period, they were selling not only carbines but also .45 automatics.

Mr. CONYERS. And M1's.

Mr. DAVIS. M1's, yes, sir; and my understanding is that Mr. Keathley can verify that but I understand they still sell long guns.

Mr. KEATHLEY. They still sell long guns.

Mr. OWENS. Long guns can only be sold to active members and recognized clubs.

Mr. CONYERS. In what quantity?

Mr. OWENS. I have no idea.

Mr. DAVIS. I would guess it would have to be in the thousands.

If the committee is interested, we have an evaluation of the guns to Mexico program in which we think that the evidence is very con-

clusive that there is a direct relationship between gun traffic and narcotics and we would be happy to provide the committee with a summarization of that finding, if the committee desires.

And then the next point, I would like to make with is what we are doing with this overlay in trying to stop these various sources.

In the case of dealers, of course, we rely on compliance inspections and we have strong reasons to believe that the dealer is violating Federal law, we will use undercover investigations such as we did with the dealers in South Carolina and then, of course, gun tracing provides a very good clue as to which dealers represent the greatest hazards.

If we find an unusually large number of guns being sold to a dealer, then we will look at it more closely. It does not necessarily mean or it is not even presumptive that he is violating Federal law, but certainly, we raise the question.

Now, some of the areas that have been proposed, one is reduction of the number of dealers and the President's message on crime has focused on this point. By reducing the number of dealers, of course, it makes our compliance program much easier and since only those people commercially engaged in the business of selling would be licensed.

Mr. CONYERS. Pardon me sir. We do have a record vote, so could we interrupt and suspend these proceedings for approximately 15 minutes.

Mr. McCLODY. Mr. Chairman, I do not know that I can come back. I will be involved in the next matter on the floor so I am very interested in this next stage of your testimony, what you can do without additional legislation and what potential of additional legislation would be in the tracing operation and in other areas.

Mr. CONYERS. Is it your preference that we do not continue?

Mr. McCLODY. No, I think you should continue but I will just have to examine your testimony in that respect.

Mr. CONYERS. Let's hold anything else until we come back.

The subcommittee will recess.

[Whereupon, the subcommittee recessed at 12:20 p.m.]

AFTER RECESS

Mr. CONYERS. The subcommittee will come to order. We resume the testimony of Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

One of my colleagues pointed out to me, while the committee was in recess, the Department of Defense, the civilian marksmanship program, sends a notification to ATF of every individual who wishes to purchase one of their guns and then we, through our field offices, make a quick check to determine whether that individual is qualified under Federal law so we do have that kind of cooperative relationship.

Mr. CONYERS. The question is how many?

Mr. DAVIS. We can determine that and give it to you.

And then continuing and moving to the falsification problem by the purchaser, again, we rely on compliance and inspections of the dealers' records and spot checking transactions forms to determine if they are properly made out and again, gun tracing, many times

provides us with information as to when this occurs and then we investigate the purchaser, if there is an indication that he has falsified the Federal forms.

In the case of the illegal sales activity, as we have indicated to the committee, one way we have tried to combat this is through the reporting of sales as of July 1 of this year. We do, of course, make undercover investigations in which our agents, if they have reason to believe an individual is engaged in unlicensed sale of guns, we will make the appropriate approach and, of course, the normal criminal investigation we carry on is effective in this area.

Now, the individual sales: Under existing law, there is no prohibition against the sale of guns and certainly, at this point in time, there is no effective way we can stop this.

Mr. CONYERS. Do you have any intention to promulgate regulations that might begin to cover this very sensitive area?

Mr. DAVIS. Under existing law, there is no statutory basis upon which to promulgate regulations.

Again, the administration's bill that will follow the President's message on crime may address itself to this in its final form.

Again, I have already mentioned the fact of those pen guns which are readily converted or convertible to standard ammunition, coming under the controls as of July 1 of this year and, again, we use undercover investigations and that involves criminal investigations to detect and apprehend people who are illegally manufacturing.

As I have already indicated, smuggling is not a problem except maybe on a very limited basis and, of course, the U.S. Customs Service is actively working on the smuggling problem and we work very closely with them in this area.

I might point out there are a number of countries in South America and the Caribbean who have complained about the traffic of firearms from the United States to those areas, specifically Jamaica, as well as the Mexican authorities.

Mr. CONYERS. Jamaica has some pretty strict gun laws.

Mr. DAVIS. Yes, and at least it is their belief and I suspect it is substantiated that there is a traffic of guns from the United States into Jamaica to contravene those laws.

Mr. CONYERS. And maybe into the other islands.

Is that some general pattern, Mexico, the islands?

Mr. DAVIS. Yes, sir. I do not like to talk about specific cases but, for example, our agents, working together with Customs, arrested four Nicaraguans in California who were amassing a cache of guns and ammunition to take into Nicaragua to support the revolution, so there seems to be a pattern.

Now, the theft question is one, of course, as I have pointed out, we feel is not only a great problem at this time but as we are successful in closing off avenues of acquisition, we feel the criminal may turn increasingly to theft to acquire guns so we have paid close attention to this area.

I have mentioned the interstate theft problem or program to try to stop thefts in interstate commerce and now we have this public education program which has just been initiated, encouraging private owners of guns to properly secure them and report their theft and things of this kind.

We have made a survey of dealers. Those licensed dealers in our Midwest region which includes Illinois and some of the adjoining States and on the basis of that and extending the results nationally, we believe that about 35,000 guns per year are stolen from dealers, either by employees embezzling or theft or by breaking in and we feel we do not have the resources at this time to require a dealer theft reporting program because of the lack of manpower to follow up.

Mr. BARBOZA. Director, is there a requirement now that would require dealers to record the names of employees who are engaged in the receipt of firearms?

Mr. DAVIS. Yes, sir, there is, and if a licensed dealer has an employee that is engaged in the receipt or sales, then that person should be qualified under Federal law.

Mr. BARBOZA. Are there any requirements either by regulation or by law which would require the dealer to record the names of individuals who are engaged in the receipt or disposition of firearms in the business?

Mr. DESSLER. In the business. In the case of the corporation the law does require the application to state that the individuals are not prohibited from transporting or receiving in interstate commerce but not in the case of individual proprietorship.

Mr. BARBOZA. So, for example, if I worked for Johnson's Sporting Goods Shop, and I am not a Federal licensee, could I sell firearms on behalf of the licensee?

Mr. DESSLER. As an employee, yes.

Mr. BARBOZA. And that information, information concerning my name and my address and my background, is not required to be recorded by the dealer himself?

Mr. DESSLER. That is correct.

Mr. BARBOZA. So that if an ATF agent were to come into Johnson's establishment and ask Mr. Johnson who is engaged in the sale of firearms and ammunition, you would have to rely on what he tells you; there are no records?

Mr. DESSLER. Yes.

Mr. BARBOZA. Would that in any way assist you?

There is one case where an individual worked for a department store, bought and sold firearms over the counter, and through his connections, consummated personal deals in the parking lot. He was convicted of selling 11 guns without a dealer's license.

Mr. DAVIS. In discussing the 35,000 guns stolen from dealers, there is an indication that quite a large number of them are single thefts, the kind an employee might be involved in or maybe by shoplifting and I think it stands to reason that a person with a felony record would be more likely to ignore the requirements of the Federal law so that if the same limitation were placed on the employees of licensees, that would avoid that problem.

Mr. BARBOZA. Without incriminating any friends, I knew when I was a kid because they for the most part respected the law. Some of us worked in a supermarket, receiving goods, and I know of a few kids who took little things that they might happen to like for their girl friends—dolls and other novelties that the store might happen to sell. I am just wondering if that kind of innocent theft does not

occur in greater proportions among persons without criminal histories than it does among persons with criminal backgrounds. Sometimes employees have the misguided notion they are entitled to more than their salaries. I would think handguns would be a commodity susceptible to that kind of pilferage.

Mr. DAVIS. The more effective the law is, the greater desirable weapons are, then of course the incentive is more for an employee to steal a gun and then go outside and sell it to somebody, obviously it would become greater, so to answer your question, it would be of assistance and of course, obviously the employee would be less likely to do it, if he realized that there could be a check on him.

Mr. CONYERS. At this point and because a quorum call has been indicated again, I think perhaps we ought to, I know that I have engagements now that will intrude on the rest of the day and I do not know how much further we can go on.

There is still a number of areas we can discuss.

Mr. DAVIS. Mr. Chairman, I think as far as we are concerned that we have covered our prepared presentation and so that we are at the pleasure of the subcommittee from now on to answer questions.

Mr. CONYERS. Well we are going to strive to have you come back. There are a number of things that I know that you could be very, very helpful with. I would like to observe that a former member of the judiciary committee and a colleague of mine, Gerry Waldie, a former representative from California, who has served with distinction on this committee, is in the hearing room and I would like to acknowledge his presence.

We welcome you back to your old stomping grounds.

On that note, the committee will be adjourned.

Thank you.

[Whereupon the subcommittee adjourned.]

FIREARMS LEGISLATION

WEDNESDAY, JULY 23, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:45 a.m., in room 2141, Rayburn House Office Building, the Honorable John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Hughes, and McClory.

Also present: Maurice A. Barboza, counsel, and Constantine J. Gekas, associate counsel.

Mr. CONYERS. Will the subcommittee come to order for a brief announcement?

Today, the House of Representatives is taking its official photograph at 10 a.m. And for that reason, it will probably be best that the subcommittee stand in recess or begin the hearing for this morning at approximately 10:30. So without objection the subcommittee will begin its hearing at 10:30 this morning.

[A brief recess was taken.]

Mr. CONYERS. The subcommittee will come to order.

The subcommittee on crime continues its hearings on firearms legislation. And we are pleased to call as our first witness the president of the National Council for a Responsible Firearms Policy, Mr. James Bennett, accompanied by the executive director, Mr. David Steinberg, and Mr. Harold A. Serr, board member and former Director of Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury.

We are very pleased to have all of you gentlemen before the subcommittee. I particularly welcome Mr. Bennett, who has testified before other subcommittees of the judiciary committee on which I serve. He has spent 27 years as Director of the U.S. Bureau of Prisons and has worked with the bar association and a number of organizations not only on the subject of firearms regulations, but also in the whole area of law enforcement and prison reform.

Gentlemen, we welcome you all before the subcommittee.

We will insert at this time your prepared statements which we are grateful for, and then free you to begin your comments in your own way.

TESTIMONY OF JAMES V. BENNETT, PRESIDENT, NATIONAL COUNCIL FOR A RESPONSIBLE FIREARMS POLICY; FORMER DIRECTOR, FEDERAL BUREAU OF PRISONS, ACCOMPANIED BY DAVID J. STEINBERG, EXECUTIVE DIRECTOR, NATIONAL COUNCIL FOR A RESPONSIBLE FIREARMS POLICY; AND HAROLD A. SERR, BOARD MEMBER, FORMER DIRECTOR OF BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF TREASURY

Mr. BENNETT. May I be permitted first to introduce our executive director who is to testify first, and then I will follow.

Mr. STEINBERG. Mr. Chairman, I have a very brief initial statement to make.

The National Council for a Responsible Firearms Policy, campaigning since 1967 for firm and fair gun-control policies in the overall public interest, has stressed the need for realistic controls that are fully responsive to the imperatives of public safety and fully respectful of the rights and privileges of all Americans, those who own guns and those who do not. We urge this Congress to face up squarely to the need for national legislation that, at long last, does two basic things in firearms regulation.

First: Requires a license for legal acquisition and possession of usable guns and ammunition—with special priority and special standards for effectively controlling private acquisition, possession, and transfer of handguns.

Second: Holds each licensee strictly and legally accountable through gun registration for each gun registered in that person's name, until the gun is legally sold or given away to another licensee or until its loss or theft is properly reported to the police.

The watchwords of this kind of gun control are responsibility and accountability. To legally possess a gun, a person must have certain basic credentials for responsible gun ownership, and that person will be held accountable by society for the safe possession, legal use, and legal transfer of that firearm.

To translate these principles into national policy at least with respect to handguns, we support the basic principles of the handgun licensing-and-registration bills introduced by Senators Kennedy and Stevenson in the U.S. Senate, and by Congressmen McClory, Drinan, Gude, and others in the House of Representatives.

By declaring himself unalterably opposed to licensing and registration, the President of the United States has declared himself unalterably opposed to national mandated rules of personal responsibility and accountability in the ownership, use, and transfer of this most destructive of personal weapons.

It is high time the President and the Congress recognized and responded responsibly to the escalating threat to public safety from the easy accessibility of guns to anyone who wants them.

The many existing laws at all levels of government are too limited in scope and too easily circumvented. The President has a special role and a special responsibility in mobilizing national resolve to solve this problem. But the gun-control provisions of his crime message fall far short of the mark. They have too little of what we have expect from 1600 Pennsylvania Avenue, and too much

of what we have come to expect from 1600 Rhode Island Avenue—headquarters of the National Rifle Association.

We applaud the President's statement that, "it is time for law to concern itself more with the rights of the people it exists to protect." But we lament the failure to recognize that one of those rights is the citizen's right to protection against the possession of guns by persons—whether or not criminals in the usual sense—who by any reasonable standard lack the credentials for responsible gun ownership.

Whatever is done to curb the handy handgun that is highly concealable and frequently used in violent crime—the so-called Saturday night special—will fall far short of the kind of handgun control urgently needed for overall public safety. As will staff mandatory sentences for the use of guns in crime, a remedy proposed by many in and out of government as a deterrent and as the only real solution to firearms violence. It has become for too many politicians a simplistic escape hatch to duck a complicated problem. Gun control is itself not the alpha and omega of a solution to violence or to violence with guns. But it is indispensable to the solution that must be found.

Those who place overwhelming trust in mandatory sentences fail to appreciate that persons who rationally use guns in crime gamble on getting away with it, and persons who irrationally use guns in "crimes of passion" do not consider the law and the penalty for violating it. There are also legal problems limiting the merits of this remedy. Mandatory sentences have been shown again and again to be self-defeating, resulting only in a distortion of our criminal justice system. To whatever extent mandatory sentences may possibly deter future recourse to guns in crime, they are no substitute for mandatory standards governing the legal acquisition and possession of guns and ammunition.

Gun control, like overall crime control, is much more than a Federal responsibility. State and local governments, for example, should promulgate codes of responsible gun ownership setting forth the do's and don'ts for the safe possession of guns by those who are authorized to have them. Unless they do promulgate such codes, the States and localities—after reasonable notice—should not be eligible for grants from the law enforcement assistance administration or similar programs. In controlling private possession, State and local governments may go as far as they wish beyond the minimum Federal standards established in the proposed Federal licensing system. But a Federal licensing and registration law is basic to effective control of these lethal devices in our dynamic and highly mobile society.

That concludes my initial comments, Mr. Chairman.

Thank you very much.

[The prepared statement of Mr. David J. Steinberg follows:]

STATEMENT BY DAVID J. STEINBERG, THE COUNCIL'S EXECUTIVE DIRECTOR
DIRECTOR

The National Council for a Responsible Firearms Policy, campaigning since 1967 for firm and fair gun-control policies in the overall public interest, has stressed the need for realistic controls that are fully responsive to the imperatives of public safety and fully respectful of the rights and privileges of all Americans, those who own guns and those who do not. We urge this Con-

gress to face up squarely to the need for national legislation that, at long last, does two basic things in firearms regulation:

1. Requires a license for legal acquisition and possession of usable guns and ammunition—with special priority and special standards for effectively controlling private acquisition, possession and transfer of handguns.

2. Holds each license strictly and legally accountable (through gun registration) for each gun registered in that person's name, until the gun is legally sold or given away to another licensee or until its loss or theft is properly reported to the police.

The watchwords of this kind of gun control are *responsibility* and *accountability*. To legally possess a gun, a person must have certain basic credentials for *responsible* gun ownership, and that person will be held *accountable* by society for the safe possession, legal use and legal transfer of that firearm.

To translate these principles into national policy at least with respect to handguns, we support the basic principles of the handgun licensing-and-registration bills introduced by Senators Kennedy and Stevenson in the United States Senate and by Congressmen McClory, Drinan, Gude and others in the House of Representatives.

By declaring himself "unalterably" opposed to licensing and registration, the President of the United States has declared himself unalterably opposed to nationally mandated rules of personal responsibility and accountability in the ownership, use and transfer of this most destructive of personal weapons.

It is high time the President and the Congress recognized and responded responsibly to the escalating threat to public safety from the easy accessibility of guns to anyone who wants them. The many existing laws at all levels of government are too limited in scope and too easily circumvented. The President has a special role and a special responsibility in mobilizing national resolve to solve this problem. But the gun-control provisions of his crime message fall far short of the mark. They have too little of what we have reason to expect from 1600 Pennsylvania Avenue, and too much of what we have come to expect from 1600 Rhode Island Avenue (headquarters of the National Rifle Association).

We applaud the President's statement that "it is time for law to concern itself more with the rights of the people it exists to protect." But we lament the failure to recognize that one of those rights is the *citizen's right to protection against the possession of guns by persons (whether or not criminals in the usual sense) who by any reasonable standard lack the credentials for responsible gun ownership.*

Whatever is done to curb the handy handgun that is highly concealable and frequently used in violent crime (the so-called "Saturday night special") will fall far short of the kind of handgun control urgently needed for overall public safety. As will stiff mandatory sentences for the use of guns in crime—a remedy proposed by many in and out of government as a deterrent and as the only real solution to firearms violence. It has become for too many politicians a simplistic escape hatch to duck a complicated problem. Gun control is itself not the alpha and omega of a solution. But it is indispensable to the solution that must be found.

Those who place overwhelming trust in mandatory sentences fail to appreciate that persons who rationally use guns in crime gamble on getting away with it, and persons who irrationally use guns in "crimes of passion" do not consider the law and the penalty for violating it. There are also legal problems limiting the merits of this remedy. Mandatory sentences have been shown again and again to be self-defeating, resulting only in a distortion of our criminal justice system. To whatever extent mandatory sentences may possibly deter future recourse to guns in crime, they are no substitute for mandatory standards governing the legal acquisition and possession of guns and ammunition.

BASIC FEDERAL RESPONSIBILITY

Gun control, like overall crime control, is much more than a Federal responsibility. State and local governments, for example, should promulgate codes of responsible gun ownership setting forth the do's and don'ts for the safe possession of guns by those who are authorized to have them. Unless do promulgate such codes, the states and localities (after reasonable notice) should not be eligible for grants from the Law Enforcement Assistance Administration or similar programs. In controlling private possession, state and local governments may go as far as they wish beyond the minimum Federal standards established

in the proposed Federal licensing system. But a Federal licensing and registration law is basic to effective control of these lethal devices in our dynamic and highly mobile society.

Unless the President and the Congress face up coherently and courageously to the importance of firm and fair gun control, the "domestic tranquility" which the President defines as a Constitutional guarantee will remain seriously elusive. As will other mandates in the preamble to the Constitution, such as "the general welfare" (involving the safety of our people) and "a more perfect union" (where the gun-control laws of the various states and localities are Federally protected against circumvention through interstate channels).

A SAFER AMERICA

This nation, at its bicentennial, is seriously menaced by growing violence with guns and by the fear of such violence. This nation, at its bicentennial, is thus unsafe for its people, unsafe for their leaders, indeed unsafe for democracy itself. The people have shown through the huge majorities of countless public-opinion polls that they expect much more from their President and their Congress on removing the stain of violence in general and gun violence in particular from this nation. We urge the President and the Congress to rise to the occasion and lay the foundation for a national campaign to correct these national failings at this critical time and this historic moment.

We invite the National Rifle Association and the many millions of responsible gun owners to join our campaign for a safer America. We extend this same invitation—and make it a special plea—to the President and the Congress.

Mr. CONYERS. Thank you very much.

We turn now to the president, Mr. James Bennett.

Mr. BENNETT. Mr. Chairman and gentlemen, I thank you very much for this invitation to present our views. And I am happy to be here and try to do something useful for the committee in its considerations.

I have always considered that my job as head of the Federal Prison Bureau was far more than merely keeping people locked up in institutions. I felt that we had to do something effective to prevent crime. And that is why I am here. The time has come when we must begin to do something about the burgeoning number of bank robberies, burglaries, and the burgeoning number of aggravated assaults, as well as homicides. And an important way to do this is to prevent easy access to handguns by the irresponsible.

Incidentally, Mr. Chairman, you have no doubt read in the press of the tremendous increase in robberies this year over the same time last year. You will note that robberies in the Northeast were up 33 percent, and 27 percent in the North Central States. The robbery index is a fair barometer of violent crime, as you know. Never in the history of the country has violent crime and robberies increased so rapidly as it is doing at the present time. It calls for and demands urgent action.

But you have had enough statistics, I suppose, and you have had enough arguments about the constitutionality of these laws, and rhetoric on the subject, so instead of more of that, if you please, I would like to discuss three or four practical problems of implementing registration and licensing procedures, which as Mr. Steinberg has stated, is our objective.

The first of these is how is the registration and licensing to be done? How much will it cost, and who is to do it?

It has been argued that any attempt to register and license the owners of at least 40 million handguns will foist a super-doooper Fed-

eral bureaucracy on an already overburdened citizenry, and cost the taxpayers from \$4 to \$5 billion dollars.

That, in my words, and plain words, is nonsense.

It is the same approach, by the way, that the enemies of the social security system took. I was detailed in my younger days to the Social Security Board as its administrative officer. We were deluged with letters and news comments saying it was an administrative monstrosity, and its coverage should be narrowed.

But notwithstanding all those doomsayers, we did succeed in making the system work, and we can do the same with a gun licensing law.

And, incidentally, in the old days of social security we did not have computers and electronic gadgets of the kind they have now.

Now, I believe that the initial licensing and registration can be done by a system of locally appointed volunteer registration and licensing boards operating, of course, in accordance with instructions and guidelines promulgated by the Treasury.

The demand for action to control handguns is so great, as shown by the polls, that there would be little difficulty, I believe, in obtaining highly respected citizens, including, of course, gun owners themselves, sportsmen, members of the NRA and others, to staff these units.

Precedents for this sort of thing are the selective service boards, the rationing boards during the war, and local social services and family welfare boards of various kinds.

The funds to provide the clerical services would come from a Federal grant system and be, of course, offset in major part at least by the licensing fees.

Much of the registration procedures could be done through a mail-order system using local officials to identify the guns and perhaps the gun dealers themselves, and authenticate the application. There is no reason why, among others, as I said, the licensed gun dealers could not be used for this purpose. They are skilled, knowledgeable people whom, I should think, would be most anxious to cooperate.

The second practical problem concerns the standards or criteria to be used in determining who may not be licensed to own a handgun. There would, of course, be no serious problems involved for the local units with regard to juveniles, fugitives, ex-convicts, convicted hard drug users, and so on.

Judgment and information, however, would be required to pass on the application of a person alleged to be mentally disturbed or defective, a confirmed alcoholic, or a person, for instance, who is under court order to keep the peace, is on suspended sentence, or presents a clear and present danger to himself or others.

To be sure, not many of these latter would ask for a license, but their failure to have one would make them hesitate in possessing or acquiring in the black market a gun because of the fear of being "set up"—and that is a very prevailing fear among the underworld, that they are going to be set up and thus subject to a sure-fire conviction if found guilty of possessing an illegal gun.

And it would not, in such circumstances, take long to price such unlicensed guns out of the market, if the regulations provided that

all guns not registered by a certain date or thereafter be considered contraband.

One of the problems we face in this whole area is, what are we going to do about getting all of these 40 million handguns that are now in the hands of people under some kind of control? And I think this is one of the ways that we can do it.

We can all sit around and conjure up situations and problems that would complicate the work of the local units, but they would be no more serious than those confronting many licensing and oversight boards. I am sure you gentlemen are familiar with those boards around and the problems they face, ranging from the Social Security Board all the way down to smaller boards. You know they all have problems. But we can face up to it and I think we can solve it.

I believe also that the local units should not attempt to say whether a person found to be a responsible, law-abiding applicant really needed a gun for self-defense, for protection against wild animals, or whether the gun was actually one to be used for so-called "sporting" purposes, or whether the gun was really an antique, or anything else, other than that the particular applicant was a responsible individual. If the applicant was refused a license, the burden would be on the local unit to show that the applicant was, in fact, unfit in some specific manner spelled out in the legislation or the regulations to possess a handgun, or that he was not an exempt person.

The only exception I would make would be a ban on registration of unsafe, snub-nosed belly guns—you are familiar with that abundantly, I suppose, the Saturday night specials. I think we ought not to register those guns under any circumstances.

Any person refused a permit or aggrieved by decisions of the local licensing unit could, of course, appeal to the secretary and the courts.

Now, the third practical problem is banning the possession, transportation, or carrying of the handgun outside the home or off the property of its owner, and the regulation of the sale or transfer of handguns among licensed individuals.

A statutory provision limiting the carrying of handguns outside the owner's home is, of course, necessary if we are to make real headway in reducing handgun crime. There was a suggestion, incidentally, made by the Attorney General in his first speech that the possession of a handgun off the premises should be banned. I think it is thoroughly desirable and a practical thing to do unless a special permit is issued.

The responsibility for authorizing the possession of a handgun outside the home could be lodged in the local units and granted or refused at the time the license was issued. Or it could be done on an ad hoc basis on a showing of necessity by the local police or any State or Federal judicial officer. The circumstances to be taken into consideration in authorizing removal of the handgun from the home would, of course, be spelled out in the regulations.

Intrastate sale or transfer of handguns would be limited, of course, to licensees and require reporting of the sale to the Treasury in accordance with prescribed regulations.

Presumably all information concerning the gun and its owner would be confidential and used only for law enforcement purposes. It would be fed into a computer, thus enabling immediate tracing

of any handgun found at the scene of a crime or in the possession of any person not licensed to carry a gun outside his premises.

As you no doubt realize, computer techniques and mechanisms are advancing so rapidly and their operating costs being reduced appreciably each year, that ready and prompt information about any gun would be available at small cost. This capability should, in any event, be a well-justified expenditure in view of the benefits that would flow from reduced crime and saved lives.

I have heard it said, Mr. Chairman, that undertaking to enforce a legislation and registration statute would put an undue burden upon the Federal judiciary and the Federal courts, and the Federal law enforcement people. And it would greatly complicate the Federal court system. Now, Mr. Chairman, we have got laws on many, many subjects. But if you just take the single law of interstate theft of automobiles, more than a million automobiles are stolen each year. Now, if you can enforce that law, we can certainly enforce the relatively minor enforcement problem involved in the enforcement of a registration and licensing statute.

I think these, Mr. Chairman, are practical, unemotional answers to those who object to gun control on the grounds of cost, inconvenience, unwarranted and arbitrary action by do-gooders and liberals who are accused of wanting to disarm America. Such a licensing and registration bill would surely reduce this ever burgeoning problem of violence, robberies, and gun killings, and it would be especially—and I think this is of great importance—assuring to the public. And another thing it would do would be to boost immeasurably the sinking police morale.

We might possibly write it so that it would overcome presidential objections.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Bennett follows:]

STATEMENT OF JAMES V. BENNETT, FORMER DIRECTOR, U.S. BUREAU OF PRISONS

As the former Director of the U.S. Bureau of Prisons, I am firmly convinced that the most practical and effective way to reduce the burgeoning number of bank robberies, burglaries, and aggravated assaults, as well as homicides, is to put an end to easy access to handguns by the irresponsible.

It is for that reason I, as President of the National Council for a Responsible Firearms Policy, urge you to approve registration and licensing of handguns. You have had enough statistics, constitutional arguments, and rhetoric on this subject, I suspect. So instead of more such, I would like to discuss briefly three of the practical problems of implementing registration and licensing procedures the Committee must resolve.

I. How is the registration and licensing to be done, how much will it cost, and who is to do it?

It has been argued that any attempt to register and license the owners of at least forty million handguns will foist a super-doooper federal bureaucracy on an already overburdened citizenry and cost the taxpayers from four to five billion dollars.

That, in plain words, is nonsense.

It is the same approach that was taken by the enemies of the Social Security System. I was detailed to the Social Security Board as its administrative officer during its early days. We were deluged with letters and news comment saying it was an administrative monstrosity and its coverage should be narrowed. But we did succeed in making the system work and we can do the same with a gun licensing law. And, incidentally, we did not have, when we set up the individual Social Security accounts, the computers and electronic gadgets that are now available.

I believe that the initial licensing and registration can be done by a system of locally appointed volunteer Registration and Licensing Boards operating in accordance with instructions and guidelines promulgated by the Treasury.

The demand for action to control handguns is so great, as shown by the Polls, that there would be little difficulty in obtaining highly-respected citizens, including, of course, gun owners, sportsmen, and members of the NRA to staff such units. Precedents for this sort of thing are the Selective Service Boards, the Rationing Boards during the war, and local Social Services and Family Welfare Boards of various kinds.

The funds to provide the clerical services would come from a Federal grant system and be, of course, offset in major part at least, by the licensing fees.

Much of the registration procedure could be done through a mail order system using local officials to identify the guns and authenticate the application. There is no reason why, among others, the 150,000 licensed gun dealers could not be used for this purpose. They are skilled, knowledgeable people whom, I should think, would be most anxious to cooperate.

II. The second practical problem concerns the standards or criteria to be used in determining who may not be licensed to own a handgun.

There would, of course, be no serious problems involved for the local units with regard to licensing fugitives, ex-convicts, or convicted hard drug users.

Judgment and information, however, would be required to pass on the application of a person alleged to be mentally disturbed or defective, a confirmed alcoholic, or a person, for instance, who is under Court Order to keep the peace, is on suspended sentence, or presents a clear and present danger to himself or others.

To be sure, not many of these latter would ask for a license, but their failure to have one would make them hesitate in possessing or acquiring in the black market a gun because of fear of being "set-up", and subject to sure-fire conviction if found with an illegal gun. It would not take long to price such unlicensed guns out of the market if the regulations provided that all guns not registered by a certain date were thereafter to be considered contraband.

We can all conjure up situations and problems that would complicate the work of the local units, but they would be no more serious than those confronting many licensing and oversight boards.

The local units, of course, should not, I believe, attempt to say whether a person found to be a responsible, law-abiding applicant really needed a gun for self-defense, for protection against wild animals, or whether the gun was actually one to be used for "sporting" purposes; whether the handgun was really an antique, etc. If the applicant was refused a license, the burden would be on the local unit to show the applicant was, in fact, unfit in some specific characteristic spelled out in the legislation or the regulations to possess a handgun, or was not an exempt person.

The only exception I would make would be a ban on registration and licensing of unsafe, snub-nosed belly guns—the so-called Saturday Night Specials.

Any person refused a permit or aggrieved by decisions of the local licensing unit could, of course, appeal to the Secretary and the courts.

III. The third practical problem is banning the possession, transportation, or carrying the handgun outside the home or off the property of its owner and the regulation of the sale or transfer of handguns among licensed individuals.

A statutory provision limiting the carrying of handguns outside the owner's home is, of course, necessary if we are to make real headway in reducing handgun crime.

The responsibility for authorizing the possession of a handgun outside the home could be lodged in the local units and granted or refused at the time the license was issued. Or it could be done on an ad hoc basis on a showing of necessity by the local police or any state or federal judicial officer. The circumstances to be taken into consideration in authorizing removal of the handgun from the home would, of course, be spelled out in the regulations.

Intrastate sale or transfer of handguns would be limited, of course, to licensees and require reporting of the sale to the Treasury in accordance with prescribed regulations. Presumably all information concerning the gun and its owner would be confidential and used for law enforcement purposes only. It would be fed into a computer; thus enabling immediate tracing of any handgun found at the scene of a crime or in the possession of any person not licensed to carry a gun outside his premises. As you no doubt realize, computer techniques and mechanisms are advancing so rapidly and their operating costs being

reduced appreciably each year, that ready and prompt information about any gun would be available at small cost. This capability should, in any event, be a well-justified expenditure in view of the benefits that would flow from reduced crime and saved lives.

CONCLUSION

Those, Mr. Chairman and Members of the Committee, are practical and unemotional answers to those who object to gun control on the ground of cost, inconvenience, unwarranted and arbitrary action by "do-gooders" and "liberals" who are accused of wanting to disarm America. Such a bill would securely reduce burgeoning gun killings, reassure the law-abiding, boost immeasurably police morale and might indeed overcome Presidential objection.

Thank you for your consideration.

Mr. CONYERS. We are very grateful for your testimony, Mr. Bennett. We will have some questions for you after we have heard from Mr. Serr, if he chooses to make any comments. And I hope you will, being the former head of the Bureau of Alcohol, Tobacco, and Firearms and having so much Government experience. We have been working very closely with ATF and listening to a great amount of testimony. They have been very helpful, and I am sure you were in the past.

Mr. SERR. Thank you. I am sure the present agency is highly skilled and very competent in advising Congress.

I want to thank you, Mr. Chairman, for this opportunity to come before you and to present some testimony on gun controls, and I would like to offer to work with you further in any way that I may be helpful.

I think one reason we are here is because we know that the present laws on gun controls are inadequate.

I was director of ATF at the time the 1968 law went into effect, and I was responsible for the development of regulations to implement that law. So I know some of the things that were wrong with that law.

I have filed a statement with the committee which expresses my views. Unless you wish me to read it, I would like to go to the heart of the thing that I believe the committee is going to have to wrestle with.

I might point out, however, as I do in my statement, that the Federal law on gun controls has been designed primarily in the interstate area, including imports. It is not a perfect law, otherwise we would not be here. But I think we all ought to recognize that it does not cover the various numbers of guns that are out in the hands of the public. Maybe 2 million guns are moving into interstate commerce each year, and there are 40 million out there already that are being added—I am talking about handguns. We ought to recognize the existence of the entire problem. And that is the thing that I hope the Congress will address itself to.

I recognize the politics of the situation. And I do not know what the Congress is going to be inclined to do. But personally I do not see how the handgun problem can be avoided much longer.

On the assumption that the most likely action by the Congress is going to be in the handgun area I would like to read from my prepared statement for emphasis.

As a matter of the National Council I support their aims and objectives, and in connection with handguns control, I support fully

the idea of registering and licensing all handguns owners and transfers.

So I would like to make these few suggestions.

I feel that the primary purpose of such legislation should be to get handguns off the streets. To this end, all handguns should be registered. This will identify them, and tie them to a certain location together with the name of the person who owns them. This registration should be made easy, and without cost to the registrant. It should be carried out, regardless whether a license can be issued to the owner. Licenses should be required to move or carry registered guns, as well as to acquire new or additional guns. These licenses should only be issued after thorough investigation and the applicant should be expected to pay a large enough fee to cover the cost of issuance. Licenses to carry handguns on the person or in a vehicle must be restricted to cases of carefully prescribed need. Guns found away from the place where registered without a license, should be subject to forfeiture and the possessor subject to severe penalties.

In conclusion, we should not forget that with 30 to 40 million handguns in the hands of the public, and with more than 2 million more being added to that number each year, the handgun problem is rapidly growing to unmanageable proportions. I believe we are the only nation in the world with a large private ownership of handguns which are substantially unregulated.

I base that on the experience I had when I was ATF Director. As you know, we had controls restricting the importation of certain guns. And many importers had filed with foreign producers requests for a large number of guns to be brought in. We found that many of them, of course, did not meet our standards, so we would not let them come into the country. Several importers came to me and asked what they could do with these guns if they could not bring them into the United States. I suggested they move them into another market: Cuba, Central America, Africa, Indonesia, India, any place.

And one of these men turned to me and he said, Mr. Serr, do you not realize that the United States is the only place in the world that allows guns to be sold over the counter like you buy groceries?

And this is the thing we have got to counter in this country.

In conclusion, I just want to add that we believe in licensing and registration. But if this does not solve the problem, more drastic steps are going to have to be taken. So I think all people interested in really solving the problem ought to get down to a complete solution and not halfway measures that are going to keep this problem in the fore year after year. We have controversy from each side. Each side feels it has rights to protection, freedoms to protect. But I believe there is a solution.

I thank you, Mr. Chairman.

[The prepared statement and accompanying materials follow:]

STATEMENT OF HAROLD A. SERR

I wish to thank the Committee for providing me an opportunity to join Mr. Bennett and Mr. Steinberg in discussing gun controls. I fully support the objectives of the National Council for a Responsible Firearms Policy.

Having been Director of the Alcohol, Tobacco and Firearms Division at the time the Gun Control Act of 1968 became law, and having had the responsibility to develop implementing regulations for the administration of the law, I would

like to add a few observations pertaining to the gun controls which the Congress has authorized up to this time.

First, except for one restricted class of weapons, the federal government has never provided a national system of gun controls. Federal legislation covers the inter-state traffic in firearms, including imports. It applies to the current movement of guns, but does not control the vast arsenal of guns already in the hands of the public. Oversight of these latter weapons is left to the states. It is important to understand this situation since too many people are under the impression that federal controls have been tried and found to be ineffective. The federal controls, weak and imperfect as they are, have been useful, but in our highly mobile society, unless the 50 states provide basically uniform rules of a sufficiently high standard, effective gun controls cannot exist.

Second, in the one restricted area where the federal government has assumed responsibility the system has proved highly effective. I refer to the regulation of machine guns under the National Firearms Act and Title II of the 1968 act. As a result, the rise in violent crimes has largely rested on the criminal use of handguns in recent years, while the use of machine guns in such crimes has been dramatically reduced from the 30s when these controls first came into existence.

I realize that many citizens have sincere reservations about any attempt to impose controls on their right to possess and use guns. I know how this affects the thinking of many in the Congress. However, the Congress also has a responsibility to those citizens who believe they have the right to be free from fear for their lives and their property arising from the unregulated possession and use of guns.

While we believe that all guns are dangerous and should be strictly controlled, we know that members of the sporting society will urge that they should be given deferential treatment. Perhaps the Congress will find some merit in these arguments with respect to long guns.

However, the handgun is another matter. Aside from some competitive and informal target use, it is a lethal weapon primarily designed for one purpose—to shoot people. It is the principal weapon used by persons engaged in crime. Sadly, too frequently, it is used to settle small differences between people in heated controversy. Action to strictly limit the acquisition and possession of handguns is essential and should no longer be put off.

Assuming that the most likely Congressional action will be limited to handguns, I would like to make a few suggestions regarding handgun registration and licensing proposals. I feel that the primary purpose of such legislation should be to get handguns off the streets. To this end, all handguns should be registered. This will identify them, and tie them to a certain location together with the name of the person who owns them. This registration should be made easy, and without cost to the registrant. It should be carried out, regardless whether a license can be issued to the owner. Licenses should be required to move or carry registered guns, as well as to acquire new or additional guns. These licenses should only be issued after thorough investigation and the applicant should be expected to pay a large enough fee to cover the cost of issuance. Licenses to carry handguns on the person or in a vehicle must be restricted to cases of carefully prescribed need. Guns found away from the place where registered without a license, should be subject to forfeiture and the possessor subject to severe penalties.

In conclusion, we should not forget that with 30 to 40 million handguns in the hands of the public, and with more than two million more being added to that number each year, the handgun problem is rapidly growing to unmanageable proportions. I believe we are the only nation in the world with an unregulated handgun problem. If licensing and registration does not solve the problem, more drastic steps may be necessary. I am hopeful that a tough licensing and registration law will give both sides of this controversy, the protection and the freedom which each seeks.

WHICH WAY—HANDGUN CONTROL?

(By James V. Bennett, Former Director, U.S. Bureau of Prisons)

It is heartening and reassuring for one who has spent the best years of his life trying to reduce the toll which crime levies on our well-being to participate

in so highly sponsored a forum—one dedicated to doing something specific about control of our most frightening breeder of terror—the handgun. I applaud the forthrightness and political courage of the men and women who direct our cities in this effort to see that lethal weapons are kept out of the hands of the immature, the crime-prone, and the irresponsible.

You, a most knowledgeable and concerned group, are already aware of the importance of this from the thoughtful and provocative remarks of those who have preceded me. My assignment rather is to give you an overview of the various methods of control. I can do this best, I believe, by making a short analysis of the dozens of proposals for federal legislative action, their effectiveness, practicability and my views as to their likelihood of winning support and compliance. My remarks are predicated on the assumption federal legislation is essential to any meaningful action.

REPEAL BILLS

Among the 40 or so bills at last count pending in Congress are five to repeal the "Gun Control Act of 1968" which as most of you know prohibited the interstate shipment of firearms and ammunition by other than licensees. It also banned mail-order and over-the-counter sales to juveniles, drug addicts, mental defectives or whenever the sale would violate state laws.

Limited in scope as it is to *interstate* sales, starved for funds to investigate and oversee licensed dealers, weakened by amendments regarding ammunition sales and with no authority over possession of guns or to oversee *intrastate* sales, the law nonetheless, has been a useful first step. The Treasury Department, using its provisions, has developed a great deal of useful information about traffic in firearms, which will be available to this forum and Congress. The Department, in 1974, arrested 3,123 individuals for violating its provisions and seized 6,625 illegal firearms in the process. Its Bureau of Alcohol, Tobacco and Firearms has been able to trace hundreds of handguns used by criminals and been instrumental in the conviction of many, many organized crime figures.

One of several flaws in drafting the Act was the failure to prohibit the importation of the parts and components for the cheap foreign handguns whose importation was banned. Using this loophole in the law, more than one million so-called Saturday Night Specials were assembled and sold during 1970, according to Senator Birch Bayh's report. Sales probably reached one and a half million in 1974. Upwards of one-half million of these were assembled in Florida, where state laws are lax. The legislature has just now refused to act on pending bills to license gun manufacturers as have most states.

Now there are those who want to repeal this hard-won 1968 Act of Congress. Every indication is that there is no chance that any of the "repealers" will pass and that instead the loopholes will be plugged and enforcement be strengthened. But, out of long experience, I suggest vigilance because I know it is frequently possible to tack some innocent looking amendment on one inconspicuous bill that can gut an important law such as this.

THE "COMPLETE" FIREARMS CONTROL BILLS

Several Congressmen have had the courage to introduce bills that I call the "complete" firearms control bills. These would apply to long guns as well as handguns and require their registration and a permit to own a firearm of any kind. Exceptions are made for persons in the police and law enforcement fields, and members of licensed gun and pistol clubs.

These bills also would make it unlawful for any person to own or possess *any handgun*. It provides for reimbursement of the fair market value of handguns confiscated, and sets up a permit system for rifles and shotguns.

Other Congressmen adopt the same approach but limit their proposals to handguns. In other words, they would confiscate all handguns, pay the owner their fair market value, and provide severe penalties for violators exempting, of course, law enforcement officers, pistol club members and certain other categories. If bills of this type were enacted, the same policy, generally speaking, with respect to ownership of guns would apply here as in England, Japan, and with modification, in several other countries.

The objective of these bills, of course, is to license all firearms owners and get *all* handguns out of private possession *now* and have done with half-way measures.

There are some who argue these bills raise serious constitutional problems and question whether the Federal Government's jurisdiction could extend to the seizure of such guns if they were not voluntarily surrendered. Others including myself question the political realism of such bills in the emotionally charged atmosphere surrounding gun control. But they should be discussed.

REGISTRATION

Several Congressmen propose in their bills that the Federal Government set up a procedure for recording data identifying handgun owners and the handguns they possess. The bills do not undertake to specify who may or who may not own a handgun or undertake to control his authority to sell, transfer or carry it wherever the owner wishes. Its objective apparently is to facilitate detection of the owner of a handgun used in a crime. The information contained in the registration cannot be disclosed except to the FBI and law enforcement officers requiring such data. As I read the bill, the information could not be used in a proceeding alleging violation of local or state firearms laws. Bills of this type seem to me to set up a pretty expensive procedure to small purpose. Their enforcement also would be fraught with great difficulty because of the necessity to comply with the search and seizure provisions of the constitution and their strict interpretation by the court. Other bills prohibit sales only to licensed pistol clubs. Some would limit possession to members of pistol clubs.

MANDATORY PENALTIES FOR GUN CRIMES

These bills set up stiff, additional penalties for crimes committed by a person while armed. They undertake to implement the argument that gun violence can best be curbed by tough, no nonsense, penalties. It is to be noted that these bills apply to federal crimes only, where the penalties are already severe, and authorize an additional penalty for crimes committed while armed. It is to be noted that several states and cities have already enacted laws mandating minimum prison sentences for anyone convicted of any crime while armed, with no evident effect on the crime rate. Whether these will, in fact, be self-defeating as most such statutes, remains to be seen. In this connection, it must be remembered that 80 percent to 90 percent of all felony convictions are on pleas of guilty, the end result, usually, of negotiations between prosecutor and defense counsel. The opportunity for circumvention where plea bargaining prevails is obvious. In my judgment, there is little in the way of preventing gun crime in these laws, and nothing that would reduce accidental shootings, suicides, or killings stemmings from quarrels, etc. They are a convenient escape hatch for the do-nothings.

REGISTRATION AND LICENSING

Several bills providing not only for the registration of handguns but also setting up a permit system for possession of a handgun, have been filed in the House and Senate. Under these bills the owner of the gun would have to show he was not a convicted felon, fugitive, mental defective, alcoholic, juvenile, or addicted to drugs. The federal handgun license would be valid for three years and renewable for like period. Information concerning the handgun and its owner would be fed into an FBI computer. Any present owner found not to be eligible to possess a gun would be compensated if required to forfeit his weapon. Moreover, the bill authorizes necessary federal funds for this and the implementation of its other provisions. It is believed many guns would be voluntarily surrendered if money for their purchase was available, as the bill provides. The Baltimore police, as you know, did a land-office business when they offered \$50.00 for any gun and no questions asked.

Another interesting provision is authorization of the Secretary of the Treasury to delegate the registration and permit procedures to the States and compensate them for carrying out the program, provided their procedures or state laws regulating handguns meet federal standards. In other words, the entire program can be carried out by local agencies and the cost paid by the United States. That, of course, negates the argument that any registration and permit system would create a vast federal bureaucracy. Incidentally, bills of this type also usually authorize pistol clubs, exempt collectors of antique guns, sporting-type handguns when properly safeguarded, as well as all federal and state agencies. Also, they plug the loopholes in the 1968 Act, ban the sale and manufacture of the "Saturday Night Specials," and provide for recording of

handgun ammunition sales. The requirement that a new permit to possess a handgun would have to be obtained every three years was included as a means of drying up gradually the private ownership of handguns. Bills of this type call for special study and perfection of its provisions and administrative methods through hearings and experimental trial runs.

SATURDAY NIGHT SPECIALS

Opposition to strengthening the 1968 Gun Control Act, banning the importation of cheap handgun parts, and the manufacture of unsafe "belly-guns" seems to have abated somewhat since Senator Bayh was able, over great opposition, to get his bill adopted by the Senate in 1972. While there are still some problems in defining these guns and drafting their specifications and standards, they do not seem insuperable. The chief caveat to be taken into account is the charge that enactment of such a bill would be a diversionary tactic—"throwing a bone to the dog."

The Criminal Justice Section of the American Bar Association has already approved this bill, in principle, as well as recommended language to upgrade the qualifications of licensed gun dealers, require they provide adequate facilities to display and store their wares, and provide increased funds to enable the Bureau of Alcohol, Tobacco and Firearms to vigorously enforce the administration of the 1968 Act. It still has under consideration the specific handgun legislation it would recommend to implement still further the Association's resolution adopted in 1965, and reaffirmed in 1973, urging enactment of importation, sales, transportation and possession of firearms. The Section's action will be transmitted to the ABA Board of Governors, and hopefully will be acted upon by the House of Delegates, which is the "Congress" of the legal profession, at the August 1975 Annual Meeting of the American Bar Association.

CONCLUSION

What I have said here and the course of action I have implied as most desirable represents the views of one of the oldest citizen groups realistically trying to secure meaningful handgun control—"The National Council for a Responsible Firearms Policy," of which I am the President. We welcome you to membership.

As I said at the outset, this Forum, I believe, holds great promise for possible action in curbing gun violence and the time are favorable. There is an informed new public awareness of the handgun menace. The people are cynical and distrustful of our criminal justice system and its failure to protect, especially from gun violence. They are also angry because their demands for action have been frustrated. The police badly need a morale booster of this kind. Moreover, it is our good fortune to have a new Congress of men and women not willing to follow the beaten path of beaten men. Moreover, we have a new dynamic, thoughtful, independent Attorney General who has said:

"The control of handguns is a terribly difficult problem that generates deeply emotional responses but it is also central to the horrible insecurity affecting many of our cities."

So, what more do we do? Only a strategy. Only untold action. Only the will to carry on. Only an end to defeatism, fear, and apology.

Mr. CONYERS. We are very grateful.

You gentlemen as representatives of your organizations have a great deal of experience. There are areas that have begun to attract my increasing attention. And I would like to have you react to them during the few minutes I have for questioning.

First, you pointed up the need for registration, and we are thinking of some kind of center to assist law enforcement officers tracing firearms, for example, and I am glad to hear you talk about it.

Further, I am intrigued with the notion of an identification system for persons who own weapons or wish to purchase firearms or ammunition.

The thing that I think almost everybody can agree on is that we need some kind of a national educational program that would be

related to the right of people to possess especially small weapons, handguns in particular.

And then it seems to me that we might consider some methods, through the constitutional provision of taxation or the health and safety provisions, of which you have some authority to regulate or prohibit the manufacture of concealable handguns. In terms of your several experiences, which of these programs seem more recommendable from your standpoint and which seem less?

Mr. BENNETT. Certainly, Mr. Chairman, we can start out with the idea of an educational program. That certainly we need as much as anything. I think that is a splendid idea.

But on the other hand, it is only a beginning, Mr. Chairman. We have got to go much further than that. And one of the ways that we can educate people is to find out who it is that has a handgun now. He is the fellow we want to reach. And we can put his name in the computer and we can send him literature and we can send him information, and we can make him aware of the hazards. And we can educate him on how to keep his guns, and so on. But we have got to know who he is.

I would rather have Mr. Serr talk on the ban of the manufacturing of handguns—or perhaps you do not mean that completely, maybe you mean the ban on the manufacture of only certain types of handguns.

Mr. CONYERS. Let us make it very generous and make it a ban on the manufacture of concealable handguns.

Mr. SERR. I am afraid, Mr. Congressman, this is going to get us into quite an area of definitions. As you know, the 1968 law permitted the importation of guns that had sporting value. So the Treasury was left with the job of trying to decide what guns had sporting value and what guns do not. And in the handgun field a factoring system was set up. Of course, lines were drawn with the result that certain guns barely met the standard, and other guns missed by a very narrow margin. You have to draw the line someplace.

And what I want to point out is that the concept was not solely based on concealability. A person can conceal—we all know of cases where people have gotten in with machine guns concealed on their persons. So the legislative standard should be broad enough to exclude a handgun which the average person would not normally try to carry concealed on his person.

If you make it big enough, if you make it heavy enough, if you put factors in there that do not lend themselves to being put into a pocket and quickly withdrawn, this all tends to discourage its being used on the person.

So I have to answer by saying, in this area it is more a matter of judgment. But I do not think that the Congress will have too much trouble, in view of the 7 years of experience we have had in drawing this line with regard to nonacceptable importable weapons. I do not think you should have too much trouble in drawing a somewhat similar line with regard to nonacceptable domestically produced weapons.

I do not want to be disrespectful to some of the testimony that has been given to the Congress. But on your point of a center for registration, I notice that yesterday the Attorney General made this state-

ment: "As in existing law the records of handgun transactions are to be kept by the dealer. There would be no central registry."

I think someone needs to be educated as to the value of a central registry on machine guns, weapons of that type. And it served a great purpose. I think a central registry, once it is established, will be useful to law enforcement officers and the individuals whose guns are registered there should not find that it has any adverse effect as far as they are concerned.

In fact, if a gun is registered in a person's name, I would think they would like to have it protected and be registered as their weapon. If they are interested in having a gun in their house, why not let it be registered and protected in case it is stolen?

Mr. CONYERS. Mr. Steinberg?

Mr. STEINBERG. Mr. Chairman, let me try to amplify this educational concept. There are some things that can be done by legislation, and there are other things which can best be left to nonlegislative means.

One of the important things, perhaps the most important thing, that can be left to nonlegislative means is the need for Government and private organizations and religious groups and churches, synagogues, groups of all kinds, to urge gun owners to reassess their need for guns and their ability to keep guns safely out of irresponsible hands. If the person does not need the gun and cannot keep it safely, he should get rid of it, turn it in to the police for destruction, or sell it to a licensed gun dealer, but get rid of it. That is a continuing educational campaign that has got to be waged day in and day out. By legislature requiring a registration process and a licensing system, the individual will be told by society through that means that a certain very special and serious responsibility devolves upon him or her as a gun owner, and that there is a need for that individual to be extremely careful on how the gun is kept and how the gun is used and how the gun is transferred.

One of the greatest problems in this whole subject today, Mr. Chairman, is that society in no state in America conveys to the gun owner that there is that special responsibility that devolves upon him as a gun owner. Society seems to say that it is no more concerned about how he keeps the gun and how he moves the gun than it is about how he keeps a lawnmower and transfers a lawnmower. So legislative means, establishing a registration and licensing process, a real effort can be made to change the whole psychology and whole attitude toward firearms in America.

Thank you.

Mr. CONYERS. I would like to recognize and yield to the gentleman from Illinois, Mr. McClory.

Mr. MCCLORY. Thank you very much, Mr. Chairman.

I cannot help but feel that we have received the most useful, the most constructive and the most constructive and the most practical testimony here this morning from these witnesses of any that we have had in the course of our extensive hearings. I commend you for the expertise which you gentlemen bring from not only your present capacities with the National Council for a responsible firearms policy, but also your prior experience in Government service. And I cannot help but feel that you really have epitomized in your testimony the

purpose, I judge, of your organizations, not only acting on behalf of the citizens generally, but on behalf of gun owners, to behave with responsibility. To suggest that there is no Federal action that needs to be taken—and some witnesses have even come before us urging repeal of the 1968 gun control laws—is completely irresponsible in my opinion. And I must take note also of the fact that an organization which bears a similar title to yours takes a very strong position against registration and licensing of firearms with an assumption that somehow or other we can sit here and ban at least all handguns, if not all firearms, from citizens, including the 99 percent, I guess, of law abiding citizens who possess firearms and want to continue to possess them.

I am sure from your experiences in Government and on this subject, that you recognize that a ban the gun bit of legislation is just unrealistic, perhaps unconstitutional, and is certainly not possible. We regard legislation as the heart of the problem, but it is not possible in this Congress or any foreseeable Congress that I can see.

I do not want to take up much time with questions. But being a supporter of some program of registration of handguns, principally for the purpose of improving the tracing operation, I am a little intrigued by this complete decentralization through voluntary groups that you summarize, Mr. Bennett. And then contrasting that with a statement of Mr. Serr about the value of a central register, do you feel that through computer technicians that we can have local registration and still have information readily available to help in this tracing operation whether we are trying to trace a firearm that has been lost or stolen or which was used in connection with the commission of a crime.

Mr. BENNETT. Surely we can do that, Mr. McClory. If a policeman arrests a person on the street in a number of situations now, he can radio into police headquarters, and the police headquarters can in almost no time report back and give back information with regard to that individual.

And it is getting easier and easier every day, this data processing business, just as you as a lawyer could go to a central data bank now and get citations on any piece of legislation or any law you would like. All you have to do is use the telephone and put it in that box, and it comes back to you in printed form. You can do it on the beat. And there is no reason why it could not be done.

Mr. McCLORY. And you feel that these volunteer groups, these local groups, who would assist in the registration operation, can compile the information in a manner which makes it readily accessible by using some kind of compatible automatic data processing system?

Mr. BENNETT. Sure. But, Mr. Chairman, on the original registration, as I indicated, I would not question too much for what purposes the individual needed the gun. And it would be the very exceptional case whether you want to check through the FBI's central registry, for example, as to whether or not the fellow was a fugitive or had a record or something of that kind.

But these voluntary groups would be mainly there to pass upon the responsibility of the individual.

Mr. McCLORY. The principal objection that comes to me from those that object to my proposals for registration of handguns, for instance, is those that say, well, this is just a foot in the door, this is just a first step.

Now, frankly, I have never suggested any banning of handguns, and I have never suggested that anybody that felt that they needed a handgun and was a law abiding citizen, and met these qualifications should be deprived of it. Do you see a registration program as a foot in the door, or do you see that this is a legitimate, long-range means for imposing responsibility on gun owners?

Mr. BENNETT. Exactly; that is what we would do. Of course, that is the same objection they made before, when I was appearing before the Dodd committee. That was the thing I heard time after time. Here is a group getting their foot in the door, and the next thing is, they are going to disarm America, they were going to take away all our guns.

Mr. McCLORY. You mean with regard to the registration of machine-guns?

Mr. BENNETT. Yes; as well as other guns.

Mr. SERR. May I give you my position on that, Mr. McClory?

We have machineguns registered for over 30 years, I believe. And yet that has not led to taking machineguns away from the people they were registered to. And yet here you have a weapon that is highly dangerous. We have not moved against those guns. They are still where they are registered. And so these people who believe that registration is going to lead to taking handguns away have got no history to fall back upon.

The Government has not used registration for that purpose at all, it has used it for control. And I think it is very reasonable. It has just been looked upon as having a potential danger that I do not think has been there.

Mr. STEINBERG. Mr. McClary, I would add this thought.

In addition to what you yourself said, the kind of registration and licensing system that we are advocating is the way that private, responsible gun ownership is going to be preserved in America. And it is high time that those who believe in that kind of gun ownership rally behind this kind of proposition.

Mr. McCLORY. I agree with that.

Let me just ask on more question. There is a new objection now to this registration program, and that is, that registration is the worse thing that we could do, because it would establish a new Federal bureaucracy, and the Federal bureaucracy would go on to perpetuate itself, and that sort of thing.

What do you think about that?

Mr. BENNETT. That is just a time old argument, Mr. McClory, that has gone on with practically every Government agency that has ever been established, by those who oppose it.

Mr. McCLORY. But unless you want to impose responsibility without trying to work out some kind of a program of prohibition, such as we tried with alcoholic drugs, there is no alternative to establishing some kind of mechanism for providing the registration.

Mr. SERR. Exactly.

Mr. McCLORY. Thank you very much.

Mr. CONYERS. I recognize the gentleman from South Carolina, Mr. Mann.

I have no questions.

Mr. CONYERS. Gentlemen, we could go on further, and we would like you to stay in written communication with us as we work toward a legislative product.

Mr. BENNETT. Mr. Chairman, I would like with your permission later on to file with the committee a brief on the value or the importance of mandatory sentences. I am opposed to it. The American Bar Association is opposed to mandatory sentences, and I think that I can file a brief and quote various people and show that it is counterproductive.

Mr. CONYERS. You know on that point, I just had an informal discussion with one of our very fine members of the subcommittee, the gentleman from New Jersey, Mr. Hughes. And we observed that on the question of mandatory sentences and the general area of increased punishment a more careful examination needs to be undertaken on the part of the advocates on either side.

And I would like to hear from some of the members of the judiciary, because concomitant with this question of increased mandatory sentences there is the very strong implication that the judiciary is not doing its job, that there is a large streak of softness and charitabiltiy running through the criminal courts of this country, a situation that I failed to observe when I was defense attorney in some of these courts.

But we want, I think, in the course of these hearings to establish far more clearly the logic and the reasoning and the supporting evidence for both of those propositions. And we would welcome such a brief from you and other concerned organizations on the subject.

Mr. BENNETT. Mr. Chairman, you have a very able judge from your area who is an expert on this sort of thing, Judge George Edwards.

Mr. CONYERS. Yes. He has testified before this subcommittee already. And he has done a very fine job.

Gentlemen, we thank you very much.

We call our next witness, Mr. James S. Campbell, who, in addition to being a board member of the National Council To Control Handguns, is a writer on the subject before us, and many other related areas. He was also general counsel to the National Commission on the Causes and Prevention of Violence and a law clerk to Supreme Court Justice William O. Douglas. He has distinguished himself by his great concern and erudition in this area.

We welcome Mr. Campbell and the executive director of the National Council to Control Handguns, Mr. Edward O. Welles.

We have your statement, and it will be incorporated in the record at this time, and that will allow you to emphasize the main points that you wish to present to this subcommittee.

TESTIMONY OF JAMES S. CAMPBELL, EXECUTIVE COMMITTEE, BOARD OF DIRECTORS, NATIONAL COUNCIL TO CONTROL HANDGUNS, FORMERLY GENERAL COUNSEL, NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE; ACCOMPANIED BY EDWARD O. WELLES, EXECUTIVE DIRECTOR, NATIONAL COUNCIL TO CONTROL HANDGUNS

Mr. CAMPBELL. Mr. Chairman, thank you very much for that generous introduction.

I find myself somewhat taken aback to be addressing you across this rather imposing array of guns here on the table. But we will try to push ahead anyway.

I would like to begin by asking Ed Welles, the executive director of our organization, to tell you a little bit about what we are doing and some of the developments in public concern with this issue.

Mr. WELLES. I too appreciate the opportunity to be here and speak to you gentlemen, after all of the exchanges that I have witnessed between you and many other people testifying.

The National Council To Control Handguns has submitted a statement, as you pointed out. But with your permission, we want to summarize portions of it orally and leave plenty of time for exchange.

We are a membership organization, a true grass-roots citizens lobby, founded about a year ago with the following objective: to support bills to curb effectively the threat of the handgun to our society.

Second, we are interested in a public national education campaign on the danger of handguns to our society.

Furthermore, we have constantly stood for strict enforcement of existing laws pertaining to illegal use of the handgun.

The unique feature of the National Council To Control Handguns is that it is an organization operating on a national level as a focal point for the growing regional handgun control groups. These groups are interested exclusively in control of the handgun, in most instances in the strictest sense—by that I mean a ban on the possession and manufacture of that weapon. Many representatives of these groups have testified to you before you in various cities in the United States, and you are aware of the caliber of work and the devotion of these people to focus the attention of the American people on this threat.

Mr. CONYERS. How large is the membership in your organization?

Mr. WELLES. Counting the various regional groups who are identified with us, we have upwards of 10,000 members.

We have had our inspiration from the findings and the work of the Eisenhower Commission as well as other commissions that have addressed themselves to this subject. And because of Mr. Campbell's familiarity with this work, I am going to ask him now to pick up the testimony to show how this handgun threat has developed and where we believe we must go to meet it.

Mr. McCLORY. Would you yield for a question at this point?

When you talk about membership of region groups, are you talking about independent groups that ban the handgun?

Mr. WELLES. That is exactly right. All of those groups that are associated with us, sir.

Mr. McCLORY. And what about your organization as an independent organization? Do you have memberships?

Mr. WELLES. Yes, sir. Indeed, we are essentially a membership organization.

Mr. McCLORY. What is that membership?

Mr. WELLES. That membership is upward of 1,000 dues-paying members, sir. And I might state that it is a growing membership, one that has certainly made itself known gradually without great resources, but I think it has had a unique growth.

Mr. CAMPBELL. Mr. Chairman, to continue on from the point that Mr. Welles made, to really understand NCCH's position on handgun control, you have to understand the Eisenhower Commission's posi-

tion on that subject. The Eisenhower Commission, as you well know, was formed by President Johnson in 1968 after the assassinations of Robert Kennedy and Martin Luther King. It was a commission that studied quite a number of subjects on assassinations, of course, violence in the media, the problem of urban riots. It was the commission which sponsored the Walker report on the Democratic Convention disorders in Chicago in 1968. But one of the subjects that we dealt with was firearms violence. And that was a subject that touched many of us very deeply in the course of our work.

Dr. Milton Eisenhower came out of that experience with a strong commitment to the banning of the concealable handgun. And he is active in NCCH right now. The Executive Director of the Eisenhower Commission, Lloyd Cutler, feels the same way, and he is active with NCCH. And there are a number of other Eisenhower Commission veterans who have joined in sponsoring our work—Albert Jenner, the distinguished attorney from Chicago, with whom the gentlemen here are familiar, and another Chicago attorney, George Newton, who was the head of the Task Force on Firearms Violence of the Eisenhower Commission.

And all of these people, and many who have read the work of the Eisenhower Commission in this field, support the basic finding of the Commission on the subject of handguns. And that finding is that the only successful strategy for handgun control is to reduce the availability of the handgun—the general, overall availability of the handgun.

And that means basically two things. It means a turning off of the spigot, a clamping down on further production of these weapons—something which should not be, from a law enforcement standpoint, an impossible goal to achieve.

And second, it means efforts to reduce the existing population of handguns, in part through buy-back programs, which will admittedly be somewhat expensive, and through legislation which will make the continued possession of handguns unlawful.

Now, these are not positions which were jumped at by people who were passionately opposed to guns as such. These were positions reached by reasonable, responsible people after a hard look at all the alternatives.

And it is for that reason that the National Council to Control Handguns does not support legislation that would merely register handguns or license their owners, so as merely to prohibit handguns from being owned by relatively narrow categories of persons, such as convicted criminals or drug addicts. If you reach the conclusion that the criminal will be able to get a handgun if handguns are as widely available as they are right now, then you come to the conclusion that it is their availability that must be attacked. We really delude ourselves if we think that it is possible to draw a bright line between the "law-abiding citizens" and the "criminal class."

Violence is very broadly disseminated throughout American society. Indeed, it has been said with much truth that violence is as American as apple pie. The Eisenhower Commission found that there are between 600,000 and perhaps a million Americans each year who engage in acts of violence. To have at hand for these people to use, in passion or premeditation, these terribly dangerous weapons, is something that

we cannot go on tolerating. We have to realize that only if the majority are willing to forego their attachment to these weapons, will we be able to keep them from the hands of those who in passion or premeditation will turn them to violence.

We on the National Council to Control Handguns do support strong, consistently applied penalties. But again, as the Eisenhower Commission found, this cannot be the basic element in the attack on the handgun violence problem. If it is true that only about 5 percent of all serious crimes result in the conviction of the perpetrator of the crime, then it is obvious that the odds of escaping punishment altogether are so much in favor of the criminal that he will not be deterred from using a handgun even by the most severe penalties. In this country at the present time we are essentially relying on self-enforcement of our criminal laws. Our criminal justice processes do not deter crime. And if we are relying on a system of self-enforcement, we ought to try to make it easier for people to avoid the most violent crimes by reducing the availability of these particularly dangerous weapons.

I might say just one brief thing about the self-defense question. Here again was an issue that the Eisenhower Commission took a close look at: is the handgun necessary for home protection? When you look at the actual dynamics of the home intrusion situation, you see that the image of the alert, armed householder confronting the intruder is largely an illusion. The price that we pay for continuing to pursue this illusion is that the homeowner's handguns get out on the streets, and accidents happen in the home, and the handguns really do not do any good anyway in terms of self-defense. If you are a devoted home defender, there are alternatives available: the shotgun or the rifle. We do not need to permit the handgun in order to achieve that goal.

Before I ask Ed Welles to make a final point or two, I would like to note that we have submitted to the committee an opinion of counsel prepared principally by Mr. David O'Connor, a distinguished attorney here in Washington, on the question of the constitutionality of various firearms legislative proposals before this committee. And to summarize the whole thing in one sentence, this committee, provided it acts with the care that we know it will, has available to it all of the legislative options that have been put before it. That includes, of course, the registration proposal, which as I noted previously, we do not recommend that the committee adopt.

Mr. Welles.

Mr. WELLES. Before a quick summary I would like to emphasize to everyone that our council certainly does not seek a *total* ban on handguns. We certainly concede to the police, to licensed security guards, to the military, and to licensed pistol clubs, the use of handguns.

In summary, I would like to state that we are living in a period of increasing domestic tension and crisis. Our citizenry is seriously threatened by the proliferation of the handgun, is rapidly becoming more aware of this threat, and is more and more demanding remedial action.

Our enforcement leaders are moving in that same direction. Just yesterday FBI Director Clarence Kelley called for mobilization of citizen involvement to restore the safety of our society. What better

involvement than organizing together to severely curb the handgun?

These feelings of concern are held in virtually all sections of our Nation, though the problem is particularly acute in our metropolitan areas. Polls on the question of the handgun reflect this. For example, Gallup recently reported, back in March, that 41 percent of adults nationwide favor a ban on handguns. This figure rises to 66 percent in cities over 1 million. By way of example, a recent poll of over 1,000 taxi riders in Chicago showed 85 percent of those polled favored a ban.

Gun owners also are increasingly reflective of this feeling, with 24 percent favoring a ban on possession of handguns. As late as June, CBS took a poll and found that 51 percent of the people queried favor a ban on sales of handguns to all individuals, and that 36 percent of gun owners took that same view. Particularly significant in this expression for a ban is the position taken by women, who more and more, as we all know, are taking an increasingly significant role in the political direction that we are moving in this country.

In short, our inquiries and experiences have shown that we are facing a serious situation that demands sacrifices. If we are ever going to achieve anything approaching domestic tranquility, then we must take a long step forward and enact legislation which effectively controls the manufacture, the importation, the sale, the use, and possession of the handgun.

Thank you, very much.

[The prepared statement and accompanying material follows:]

STATEMENT OF THE NATIONAL COUNCIL TO CONTROL HANDGUNS, REPRESENTED BY EDWARD O. WELLES, EXECUTIVE DIRECTOR, AND JAMES S. CAMPBELL, NCCH BOARD MEMBER AND FORMER GENERAL COUNSEL OF THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE

It is our privilege to have the opportunity to present testimony to the House Judiciary Committee's Subcommittee on Crime. We thank the Chairman for his invitation to testify and commend Chairman Conyers, all members of the Subcommittee and the Staff for the thorough and serious inquiry you are making into the destructive role of the handgun in our society. Such an exhaustive effort, which has included hearings in many of our major cities, reflects not only the seriousness and pervasiveness of the problem of handgun violence, but also the determination of the Subcommittee Chairman and the Ranking Minority Representative to turn over every stone to develop sound legislative proposals for the consideration of their colleagues in the House of Representatives.

The National Council to Control Handguns is best described as a citizens' lobby. It came into being over a year ago to provide, for the first time, an active and continuing voice in the nation's capital in support of handgun control. This membership organization has quickly become representative of the great majority of elements active in the handgun control area. Our growing membership, while still relatively small, already ranges from coast to coast and from big city to rural area. NCCH was not founded as an emotional reaction to a political assassination, but as a result of the experiences of individual citizens, many of whom have suffered from handgun violence and are trying to do something to keep the same thing from happening to others.

We note with pride such figures in our leadership as Dr. Milton S. Eisenhower and Lloyd N. Cutler, formerly Executive Director of the Eisenhower Commission. Further, we have on our Board such outstanding law enforcement officials as Robert DiGrazia, Patrick Murphy and Jerry Wilson.

An important aspect of NCCH is that it acts as an umbrella organization and an information clearing house for the growing number of regional handgun control organizations. Many leaders of these groups are on our Board, and they have all achieved recognition and stature on local, state and national levels. The members of this Subcommittee have personally heard testimony from many of these individuals and are familiar with the legislative initiatives

presently being pursued in various municipalities and state capitals in large part as the result of their activity. We reflect that drive in Washington to help passage of effective legislation.

Our presence on the national scene is the direct result of a crisis in our midst brought about by the proliferation of the handgun. The handgun, the favorite, concealable weapon of the criminal, is increasingly understood by citizens everywhere as having the dominant role in violent crime. Citizens increasingly are feeling the traumatic effect of the handgun on their lives. Subcommittee members know the situation. The police are aware of it in all its grim reality; so are hospital personnel. The same holds true for families and friends of victims and for the victims who are fortunate enough to survive a confrontation with a handgun. In sum, the American public is aware, and they are looking to Congress for leadership. The offending article—the handgun—is now in plain sight for all to see—all 40 million of them and 2½ million more coming into circulation each year. There will be no relief from this tremendous, misguided arms build-up until Congress acts to stop it.

Because of the seriousness of the handgun threat, NCCCH urges this Subcommittee to act to meet the crisis. Two basic steps must be taken to control handguns.

First, the spigot must be turned off; that is, the manufacture, importation, sale, transfer of handguns must be made illegal (except for police, military, licensed security guards and licensed pistol clubs).

The second step must be positive action to reduce the number of pistols and revolvers already in circulation. For this purpose, a buy-back of all handguns (except deactivated antiques and those exceptions noted above) should be conducted by the Federal government for a period of time. After this period of time, the use, ownership or possession of such weapons would be illegal.

The Hart-Bingham Bill (S. 750 and H.R. 40) would substantially accomplish the above objective and is strongly endorsed by NCCCH, though, of course, we also support incremental legislation that works toward the basic goal of reducing the number of handguns in circulation.

NCCCH does not support legislation that would merely register handguns or license their owners, attempting only to keep handguns from being lawfully owned by relatively narrow categories of persons such as convicted criminals and drug addicts. Such registration proposals do little to reduce the tremendous number of handguns in circulation and consequently do not significantly reduce the *availability* of handguns to those who, in passion or premeditation, seek a weapon with which to commit a violent crime. Handguns will inevitably move from qualified owners to illegitimate owners by sale or gift and by loss, thefts, or unauthorized use (e.g., the teenager's secret use of his father's or mother's lawfully registered pistol). Moreover, even normally law-abiding citizens do, in moments of rage, sometimes assault family members or friends—with the seriousness of the attack often depending on how deadly a weapon—gun, knife, fists—is readily available for use in the attack. Under a registration regime, it is surely true that the criminal will always be able to get a gun.

NCCCH supports strong, consistently applied penalties for criminal misuse of handguns. We do not, however, believe that such penalties can ever be the foundation of an effective handgun control strategy. Because of the dismal condition of the criminal justice processes in this country, too few violent criminals find themselves convicted of crimes and subject to judicial sanctions. If, as the Eisenhower Commission found and as later studies confirm, only about 5% of serious crimes result in the conviction of the perpetrator of the crime, it is obvious that the odds of escaping punishment altogether are so much in favor of the criminal that he will not be deterred—even by the most severe penalties—from using a handgun to facilitate his criminal act.

The NCCCH takes no position regarding the regulation of rifles and shotguns. Handguns, because of their ease of concealment, are a far more serious problem than long-guns. In 1972, handguns accounted for 82% of all homicides using firearms. In 1967 (the latest year for which figures are available), handguns accounted for 86% of all serious assaults involving firearms and 96% of all robberies involving firearms. Moreover, long-guns, much more than handguns, are legitimately used by some 20 million hunters in the United States. NCCCH respects the rights of genuine sportsmen and sportswomen and has no hidden agenda in the field of long-gun control.

Recommendations for changes in current legislation frequently produce challenges that the proposals are unconstitutional and unenforceable. In this in-

stance, we believe ample precedent exists to provide a solid legal basis for all legislation currently under consideration by the Subcommittee, including the more effective measures we support. We are attaching an opinion of our counsel speaking to some of the more salient areas of constitutional concern. Our counsel has indicated a willingness to work with the Subcommittee Staff on these and other areas of inquiry if the Subcommittee wishes.

Advocates our our position often find themselves challenged on economic terms—the cost of handgun control. We acknowledge that extra costs are involved, but we ask Subcommittee members to think of the tremendous cost of handgun crime, both direct and indirect. Is this not where we must begin?

The most consistently urged objection to a control strategy that involves virtual abolition of handguns among the population at large—as NCCJ urges—is that homeowners need handguns for self-protection. As a practical matter, however, the homeowner rarely has the opportunity of confronting an intruder with his handgun at the ready: the intruder bent on robbery or rape has the advantage of surprise and is typically the first one to bring his handgun into play, while the burglar relies on stealth and is likely to flee if his presence is known. And if a homeowner should insist upon arming himself and trying to do battle with intruders, a rifle or shotgun is a preferable substitute defensive weapon. (The intruder, of course, cannot effectively use a long-gun.) In sum, the self-defense argument does not, upon examination, offer any persuasive reason for failing to pursue a control strategy aimed at drastic reduction of handgun availability.

To understand NCCJ's position on handgun control, the Subcommittee should realize that NCCJ has, in an important sense, picked up the flag from the Eisenhower Commission on this issue. NCCJ was founded by individuals who had studied the Eisenhower Commission findings on handgun violence and were persuaded to action by what they read. The founders have now been joined by Dr. Eisenhower himself and by Lloyd Cutler, the Executive Director of the Violence Commission, both of whom are actively serving as advisers to NCCJ. NCCJ's handgun control efforts are also sponsored by Albert E. Jenner, Jr., who was one of the most active, valuable members of the Eisenhower Commission. Another outstanding Chicago attorney and NCCJ sponsor is George D. Newton, Jr., who was the Director of the Task Force on Firearms and Violence of the Eisenhower Commission.

These Eisenhower Commission veterans are involved in the NCCJ effort because of their earnest conviction, based on careful study of the facts, that handgun control may well be one of the few practical, achievable steps that can produce short-term results in reducing violent crime. The Eisenhower Commission concluded that: "The heart of any effective national firearms policy for the United States must be to reduce the availability of the firearm that contributes the most to violence. . . . We believe, on the basis of all the evidence before us, that reducing the availability of the handgun *will* reduce firearms violence." A serious national effort at handgun control can be expected to retard the rise of violence in our cities. At a minimum it will save many lives and reduce the degree of bodily injury associated with violent crimes such as robbery and aggravated assault.

Moreover, a national commitment to effective handgun control could have effects of an intangible nature—a change of mood—that could make this a safer nation. It could signal a refusal by the people any longer to tolerate the shameful lack of public safety in our cities, and a new determination to do something constructive about this appalling situation. If, indeed, handgun control were to succeed in somewhat improving the safety of Americans, then our citizens might be encouraged to put aside their cynicism and despair over the "crime problem" and support the other governmental measures necessary to get at the causes and consequences of violence.

When Milton Eisenhower personally presented his Commission's voluminous Final Report to President Nixon in December of 1969, with its many recommendations on a variety of subjects, he made strict handgun control his final point—saying for last the recommendation that he wanted most to emphasize. He did this because he felt the symbolic importance of the handgun control issue, as well as its practical effect in saving lives.

If we can, as a nation, effectively give up these weapons—as individuals, sacrifice whatever psychic gratification we obtain from having and holding these private instruments of destruction—then we will have turned aside from the foolish, selfish course that is leading to ever greater violence and the con-

sequent exacerbation of many other social problems. Then other steps may follow—improvements in the criminal justice system, in education, in jobs, in housing.

These are all much greater challenges posing questions that we do know how to answer or calling for expenditures that may be beyond our means. By contrast with these vast and complex issues, the handgun problem is simple and manageable.

NCCH is greatly encouraged by the rising tide of sentiment in favor of stricter handgun controls. The evidence of public support for prompt, effective federal handgun legislation can be seen in the media, in public opinion polls, and in the blossoming of handgun control groups around the country, and in the positions of many large multi-issue organizations. We believe that there will be action on handguns by this Ninety-Fourth Congress, and we look to this Subcommittee to begin that process by reporting the strongest and most effective bill that it can.

COVINGTON & BURLINO,
Washington, D.C., July 21, 1975.

MR. EDWARD O. WELLES,
Executive Director,
National Council to Control Handguns,
Washington, D.C.

DEAR MR. WELLES: In accordance with the request of the National Council to Control Handguns (the "Council"), we have examined the numerous bills now pending before the Crime Subcommittee of the House Judiciary Committee presenting varied approaches to the growing problem of handgun crime in the United States for the purpose of identifying possible areas of constitutional challenge to such legislation. These bills fall into the following general categories:

(1) **Bills Imposing Increased Criminal Sanctions:** These bills generally make it a separate federal crime to commit a federal and/or state felony with a handgun and, in certain instances, impose limitations upon the courts (requiring the imposition of minimum consecutive sentences) and probation officials (limiting the availability of parole) in their treatment of persons convicted of committing such crimes with a handgun.¹

(2) **Bills Requiring the Registration and Licensing of Handguns:** These bills provide for either a federal registration and licensing system or federal approval of a state registration and licensing system for handguns and, in certain instances, other firearms; the bills also prohibit possession by or sale to a person not possessing a license or permit and establish sanctions for violation of these provisions.²

(3) **Bills Prohibiting the Importation, Manufacture and Sale of the "Saturday Night Special":** These bills would establish prohibitions on the importation, manufacture and sale of certain cheap and easily accessible handguns commonly known as "Saturday Night Specials"; these handguns would be identified on the basis of certain specified physical characteristics and capabilities.³

(4) **Bills Prohibiting the Importation, Manufacture, Sale, Purchase, Transfer, Receipt and Possession of Handguns Generally:** These bills would prohibit the importation, manufacture, sale, transfer, receipt and transportation of handguns except for specified purposes; in addition, certain of these bills would prohibit the possession of handguns and would provide reimbursement to per-

¹ Examples of such bills include H.R. 1136, H.R. 486, H.R. 3223, H.R. 465, H.R. 3772, H.R. 6056, H.R. 4851, H.R. 5734, H.R. 3627, H.R. 6201, S. 216, H.R. 5379, H.R. 2075, H.R. 452, H.R. 510, H.R. 524, H.R. 3325, H.R. 4011, H.R. 4635, H.R. 4361, H.R. 5292, H.R. 5672, H.R. 4890, S. 142, H.R. 3757, H.R. 5538, H.R. 5889, H.R. 4894, H.R. 5561, H.R. 4633, H.R. 3882, H.R. 4759, H.R. 4760, H.R. 5237, H.R. 4310, H.R. 3391, H.R. 4281, and H.R. 5638.

² Examples of such bills include H.R. 354, H.R. 2433, H.R. 5132, H.R. 626, S. 1447 and H.R. 1685. Certain of these bills (for example, Congressman Drinan's H.R. 5132) combine registration and licensing with prohibitions on the importation, manufacture and sale of the so-called "Saturday Night Special".

³ Examples include H.R. 267, H.R. 3021, H.R. 3773, H.R. 4557, H.R. 4283, H.R. 2433, H.R. 1685 and H.R. 706. As noted above, certain registration and licensing bills (for example, H.R. 5132 and S. 1447) also contain such provisions. The "Saturday Night Special" provisions of Senator Kennedy's bill, S. 1447, also prohibit the transfer, receipt, transportation and purchase of such weapons.

sons presently owning handguns who would be required to deliver such weapons to appropriate law enforcement agencies.⁴

Our conclusions with respect to areas of potential constitutional challenge are set forth below.

I. THE SECOND AMENDMENT

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

Opponents of federal gun control legislation have long contended that the Federal government cannot proscribe private possession of guns or prescribe conditions to such possession. Citing the Second Amendment, such persons alternatively contend (i) the plain language of the Amendment itself confers a right upon individuals to keep and bear arms and (ii) even if the Amendment does not itself confer a right to individuals to keep and bear arms, it nevertheless prohibits the Federal government from prohibiting the possession of arms. Each of these contentions are discussed below.

A. *The Second Amendment Does Not Confer Upon Individuals the Right to Keep and Bear Arms.* The argument that the Second Amendment confers an affirmative and basic right to keep and bear arms upon individuals as such has been considered and rejected by the United States Supreme Court. The Supreme Court first considered this contention in *United States v. Cruikshank*, 92 U.S. 542 (1875). In *Cruikshank*, the defendant and others had been convicted of conspiracy under Section 6 of the Enforcement Act (16 Stat. 140) in that they, *inter alia*, conspired to hinder and prevent two United States citizens "of African descent and persons of color" from the free exercise of their "right to keep and bear arms in a peaceable manner." Section 6 of the Enforcement Act provided:

"That if two or more persons shall hand or conspire together, or go in disguise upon the public highway, or upon the premises of another, with the intent to violate any provision of this act, or to injure, oppress, threaten, or intimidate any citizen with intent to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the constitution or laws of the United States, or because of his having exercised the same, such persons shall be held guilty of felony. . . ." (Emphasis added).

The Supreme Court consequently concluded that to bring the case under the operation of the statute, the right the enjoyment of which the conspirators sought to hinder or prevent must be a right granted or secured by the Constitution or the laws of the United States. Noting that the Federal government was a government of limited powers and that no rights could be acquired or secured under the Constitution except those which the Federal Government had the authority to grant or secure, the Supreme Court found that the right to bear arms peaceably was not such a right, stating:

"This is not a right granted by the Constitution. Neither is it in any way dependent upon that instrument for its existence. The second amendment declares that it shall not be infringed; but this, as has been seen, means no more than that it shall not be infringed by Congress. This is one of the amendments that has no other effect than to restrict the powers of the national government. . . ." 92 U.S. at 553.

The Supreme Court confirmed this conclusion in three subsequent opinions. See, *Presser v. Illinois*, 116 252, 265 (1886); *Miller v. Texas*, 153 U.S. 535 (1894), and *United States v. Miller*, 307 U.S. 174 (1939). In *United States v. Miller*, the defendant had been indicted for transporting a sawed-off shotgun in interstate commerce in violation of the National Firearms Act. The defendant contended, *inter alia* that the statute was unconstitutional under the Second Amendment. Noting that no proof had been presented that the weapon was any part of ordinary military equipment or that its use could contribute to the common defense, the Supreme Court remanded the case, reversing a lower court decision which had declared that the statute violated the Second Amendment. Implicit in the Court's action was a reaffirmation of its holding in *Cruikshank*—that the Second Amendment itself conferred no right to the

⁴ These bills include H.R. 40, H.R. 3202, H.R. 3154, H.R. 354, H.R. 1601, S. 750, H.R. 638, H.R. 3532, H.R. 2313, H.R. 3086, H.R. 1904, H.R. 2911, H.R. 1533, H.R. 3194, H.R. 3504 and H.R. 1187. As noted above, these bills fall into two subcategories—those which simply curtail importation, manufacture and sale and those which also attempt to deal with the existing handgun "population" by banning private ownership of handguns. The former category, although prohibiting private ownership, would combine a prohibition on importation, manufacture and sale with a funded voluntary turn-in program.

individual to keep and bear arms.⁵ This position has been consistently reaffirmed by Federal district and appellate courts. *See, e.g., United States v. Johnson*, 497 F.2d 548 (4th Cir. 1974); *Cody v. United States*, 460 F.2d 34 (8th Cir. 1972); *United States v. McCutcheon*, 446 F.2d 133 (7th Cir. 1971); *United States v. Lauchli*, 444 F.2d 1037 (7th Cir. 1971); *United States v. Johnson*, 441 F.2d 1134 (5th Cir. 1971); *Stevens v. United States*, 440 F.2d 144 (6th Cir. 1971); *Cases v. United States*, 131 F.2d 916 (1st Cir. 1942), *cert. den. sub nom. Valasquez v. United States*, 319 U.S. 770 (1943), *rehearing den.*, 324 U.S. 889 (1945); *United States v. Three Winchester Carbines*, 363 F.Supp. 322 (E.D. Wisc. 1973); *Eckert v. City of Philadelphia*, 329 F.Supp. 845 (E.D. Pa. 1971); *United States v. Casson*, 288 F.Supp. 86 (D. Del. 1968). This series of cases was aptly summarized by the Fourth Circuit in its opinion in *United States v. Johnson*, 497 F.2d 548, 550:

"The courts have consistently held that the Second Amendment only confers a collective right of keeping and bearing arms which must bear a 'reasonable relationship to the preservation or 59 S.Ct. 816, 83 L.Ed. 1206 (1939). The courts have consistently held that the Second Amendment only confers a collective right of keeping and bearing arms which must bear a 'reasonable relationship to the preservation or efficiency of a well regulated militia.'"

B. *The Second Amendment Does Not Prohibit the Federal Government from Proscribing the Private Ownership of Firearms in the Absence of a Showing that the Keeping of Arms Bears a Reasonable Relationship to the Preservation or Efficiency of a Well Regulated Militia.* Although it had indicated in dictum in *Robertson v. Baldwin*, 165 U.S. 275, 281-82 (1897) that the limitation imposed upon the Federal government's right to regulate firearms possession was not absolute, this dictum did not receive the Supreme Court's sanction until 1939 when, in *United States v. Miller*, 307 U.S. 174 (1939), the Government appealed a judgment sustaining a demurrer to an indictment for violation of the National Firearms Act.

In *Miller*, the defendant, charged with knowingly and willfully transporting a sawed-off shotgun in interstate commerce, charged that the statute was unconstitutional in that it (1) usurped the police power reserved to the states and (2) "offended the inhibition" of the Second Amendment. In light of its decision in *Sonzinsky v. United States*, 300 U.S. 506 (1937) and numerous cases decided under the Harrison Narcotics Act, 38 Stat. 785, 40 Stat. 1057.⁶ The Court found the defendant's objection that the National Firearms Act usurped police power reserved to the States to be "plainly untenable." 307 U.S. at 178. With respect to the defendant's Second Amendment claim, the Court held:

"In the absence of any evidence tending to show that possession or use of a 'shotgun having a barrel of less than eighteen inches in length; at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense." 307 U.S. at 178.

The *Miller* decision represents the sole occasion on which the United States Supreme Court has examined the extent to which the "Militia Clause" of the Second Amendment circumscribes the Federal government's right to prohibit or restrict possession of firearms by private individuals. This question has been examined, however, by numerous Federal district and appellate courts. *See* cases cited at page 5, *supra*. Although the Court in *Miller* concentrated on the absence of any demonstrable military use of the particular weapon, subsequent lower court cases indicate that the touchstone of the *Miller* decision was the broader consideration of whether a reasonable relationship existed between the possession of the weapon and the preservation or efficiency of a well regulated militia. *See, e.g., United States v. Johnson*, 497 F.2d 548 (4th Cir. 1974). As the First Circuit noted in its opinion in *Cases v. United States*, 131 F.2d 916 (1st Cir. 1942), *cert. den. sub nom., Velasquez v. United States*, 319 U.S. 770 (1943), *rehearing den.*, 324 U.S. 889 (1945):

"[W]e do not feel that the Supreme Court in . . . [*Miller*] was attempting to formulate a general rule applicable to all cases. The rule which it laid down

⁵ *Cf. Tot v. United States*, 319 U.S. 463 (1943).

⁶ The Court cited *Alston v. United States*, 274 U.S. 289 (1927); *Nigro v. United States*, 276 U.S. 332 (1928); *United States v. Duremus*, 249 U.S. 86 (1919); *Linder v. United States*, 268 U.S. 5 (1925); and *United States v. Jin Fuey Moy*, 241 U.S. 394 (1916).

was adequate to dispose of the case before it and that we think was as far as the Supreme Court intended to go." 131 F.2d at 922.

The First Circuit went on to note that if the Supreme Court intended the rule established in *Miller* to be all encompassing, the few short years since the decision had already proved this an outdated rule since World War II comandos had proved that all weapons save unserviceable antiques could in some way contribute to the common defense. The court also noted that such a limitation on Federal authority would be unthinkable in view of the absence of constraint such a standard would have been upon prohibition or regulation of the private ownership of arms with acknowledge military application, such as machine guns, trench mortars, anti-tank guns or anti-aircraft guns.⁷ The Court therefore upheld the conviction, noting that the defendant had not been engaged in military duty or training and, indeed, was not a member of the militia.

Similar results have been reached in more recent cases. See, e.g., *United States v. McCutcheon*, 446 F.2d 133 (7th Cir. 1971) (holding that the possession of and failure to register a sawed-off shotgun was not protected by the Second Amendment and that the Supreme Court's decision in *Miller* eliminated any necessity for the court to review a century and a half of legislation leading to the establishment of the National Guard as the modern day militia); *United States v. Lauchli*, 444 F.2d 1037 (7th Cir. 1971) (upholding a conviction under the National Firearms Act relating to the illegal possession and transfer of submachine guns over the defendant's Second Amendment objections, citing *Cases v. United States*, *supra*). These cases clearly demonstrate that factors other than suitability of a weapon for military use may determine whether a particular form of restriction on the possession of firearms will have any effect upon the maintenance or efficiency of a well regulated militia. Although the Seventh Circuit in *United States v. McCutcheon* was able to dispose of the case before it without examining a century and a half of legislation leading to the establishment of the National Guard as presently constituted, we will next examine that legislation together with the history of the Second Amendment and other provisions of the Constitution which must read *in pari materia*. In our opinion, such an examination demonstrates that the restriction established by the Second Amendment has no present day application to the Federal government's right to prohibit or regulate the possession of firearms by individuals.

Article I, Section 8 of the Constitution provides, in pertinent part:
"Congress shall have Power

• • • • •
[12] To Raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

• • • • •
[15] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

[16] To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the authority of training the Militia according to the discipline prescribed by Congress. . . ."

Article I, Section 10 of the Constitution in turn provides, in pertinent part:

"[3] No State shall, without the Consent of Congress, . . . keep Troops, or Ships of War in time of Peace. . . ."

As one noted scholar has indicated, these provisions, together with the Second Amendment, represented a compromise between those who, mindful of the English experience,⁸ were distrustful of large standing armies composed

⁷ Although the list of weapons then in use contained in the First Circuit's opinion is sufficient to indicate that viewing the Supreme Court's decision in *Miller* as establishing an all encompassing standard would lead to absurd consequences, this point can be even more forcefully made by applying this standard to today's modern weapons arsenal.

⁸ A complete detailing of the English experience with professional standing armies is beyond the scope of this opinion. The English Declaration of Rights, a precursor both to the English Bill of Rights and to the bills of rights of many of the American colonies, was formulated as a response to James II's anti-Protestant policies and an increase in royal troop strength to 30,000. See Perry and Cooper, *Sources of Our Liberties* (1959 Ed.), at p. 303. This distrust of standing armies, dissociated from civilian society, led certain of the framers to conclude that reliance upon the militia was the best means of avoiding authoritarian rule. Thus was born this country's "citizen-soldier" tradition. See also Feller & Gotting, *The Second Amendment: A Second Look*, 61 N.W. L. Rev. 46 (1967); Mann, *The Right to Bear Arms*, 19 S.C. L. Rev. 402 (1967); Newton and Zimring, *Firearms and Violence in American Life*, A Staff Report to the National Commission on the Causes and Prevention of Violence, Appendix J.

entirely of professional soldiers and those who, mindful of the lessons learned in the Revolutionary War, were reluctant to trust the Nation's defense solely to a largely untrained group of citizen-soldiers." Weiner, *The Militia Clause of the Constitution*, 54 Harv. L. Rev. 181, 184 (1940) (hereinafter cited as "Weiner"). A standing army was authorized, but the Militia was maintained. The relationship between these provisions and the Second Amendment was noted by the Supreme Court in *Miller*:

"The Constitution as originally adopted granted to the Congress power—"To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress." With obvious purpose to assure the continuation and render possible the effectiveness of such forces the declaration and guarantee of the Second Amendment were made. It must be interpreted and applied with that end in view.

"The Militia which the States were expected to maintain and train is set in contrast with Troops which they were forbidden to keep without the consent of Congress. The sentiment of the time strongly disfavored standing armies; the common view was that adequate defense of the country and laws could be secured through the Militia—civilians primarily, soldiers on occasion." 307 U.S. at 178-179.

Thus the Second Amendment must be interpreted in light of Article I, Section 8, Clause [16] and Article I, Section 10, Clause [3] of the Constitution, which in turn must be interpreted in light of the power granted Congress to raise and support armies by Article I, Section 8, Clause [12] of the Constitution.

The relative importance of the standing army and the militia over the years in the Nation's defense is well chronicled in Frederick Bernays Wiener's *The Militia Clause of the Constitution*, 54 Harv. L. Rev. 181 (1940). During the early years of the Republic, the standing army was reduced to a few men guarding stores. The 700-odd men who had been maintained in service were expanded and reorganized in 1790 and 1791 into a small army to be deployed against the Western Indians.

Despite the preeminent role of the well regulated militia in the Nation's defense during those early years, not until 1792 did Congress find time to provide for the "well regulated militia" which was to be the cornerstone of the Nation's defense. In keeping with the custom of the colonies, the Militia Act of 1792, Act of May 8, 1792, 1 Stat. 271, did little to live up to the obligations placed upon Congress by Article I, Section 8, Clause [16] of the Constitution. As Weiner notes, "In place of a select contingent of young men, uniformly and periodically trained, Congress included every man, and imposed no requirements as to drills or musters. The President signed the bill, but continued to recommend militia legislation, as though none had been passed. * * * Under this law, every able-bodied man between 18 and 45 was enrolled in the militia, and required to arm and equip himself at his own expense." Weiner, at 187.

Despite experiences in the War of 1812, the Mexican War and the Civil War which should have indicated that undue reliance was being placed upon the untrained and ill-equipped militia, which was also limited to service within the United States, circumstances remained basically unchanged in 1900: the size of the standing army remained limited and no permanent provision had been made for the training and equipping of the militia since the Militia Act of 1792. As Weiner noted,

"It seems almost incredible that the following section of the Revised Statutes could still have been law in the Twentieth Century:

"Sec. 1628. Every citizen shall, after notice of his enrollment, be constantly provided with a good musket or firelock of a bore sufficient for balls of the eighteenth part of a pound, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear, so armed, accoutered, and

* Washington wrote: "To place any dependence upon Militia, is assuredly, resting upon a broken staff. If I was called upon to declare upon Oath, whether the Militia have been most serviceable or hurtful upon the whole, I should subscribe to the latter." Weiner, at 183.

provided when called out to exercise, or into service, except that when called out on company days to exercise only, he may appear without a knapsack. And all arms, ammunition and accouterments so provided and required shall be held exempt from all suits, distresses, executions, or sales, for debt or for the payment of taxes. Each commissioned officer shall be armed with a sword or hanger and spontoou." Weiner at 194.

Although hardly of significance for present purposes, it is interesting to note that handguns apparently bore no reasonable relationship to the maintenance and efficiency of a well regulated militia even during these years of benign neglect by the Federal government.

Although the experience of the Spanish American War differed only in degree and particulars from its predecessors, this war was different in one respect—it brought about sweeping revisions to previous thinking as to the relative importance to the national defense of the regular army and the militia and underscored the need to better train and equip the militia. As Secretary of War Elihu Root stated:

"It is really absurd that a nation which maintains but a small Regular Army and depends upon unprofessional citizen soldiery for its defense should run along as we have done for one hundred and ten years under a militia law which never worked satisfactorily in the beginning, and which was perfectly obsolete before any man now fit for military duty was born. The result is that we have practically no militia system, notwithstanding the fact that the Constitution makes it the duty of the Federal Congress 'to provide for organizing, arming, and disciplining the militia,' and 'for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.'" 1 *Rep. Sec'y War*, 34-35 (1902).

The first significant legislative change of the militia was the so-called Dick Act, Act of January 21, 1903, 32 Stat. 775, which for the first time provided for an organized militia, to be known as the National Guard. Section 3 of the Dick Act provided that the organization, armament and discipline of the National Guard was to be the same as that prescribed for the Regular and Volunteer Armies of the United States, while Section 13 authorized the Secretary of War to issue such standard service arms as were necessary to arm the National Guard. All able-bodied males between the ages of 18 and 45 who were not members of the organized militia were designated members of the Reserve Militia. Significantly, however, such persons were neither supplied arms by the Federal Government prior to call to duty with the National Guard, or the Regular or Volunteer Army of the United States, nor were they required to furnish their own arms.¹⁰ Thus in its first real exercise of its long dormant power to organize the militia, Congress departed from its previous practice in two significant respects. First, in contrast to the militias of colonial times, it created an organized militia consisting of less than all able-bodied men for the purpose of training such men to better provide for the national defense. Secondly, and again for the purpose of better providing for the national defense, Congress assumed for the Federal Government the obligation of supplying and arming the members of the organized militia and such members of the Reserve Militia as might be called to duty in the National Guard or the Regular or the Volunteer Armies.

The subsequent enactment of the National Defense Act of 1916, Act of June 3, 1916, 39 Stat. 166, and various amendments thereto brought further revisions to the militia concept which had the cumulative effect of broadening the possible uses of National Guard troops, better coordinating the Guard with the Regular and Volunteer Armies of the United States, and developing procedures pursuant to which the National Guard could be mobilized in times of national emergency in support of the Regular and Volunteer Armies of the United States, thereby reducing the need for a large standing army. Although the many particulars of this gradual "federalization" of the militia are beyond the scope of this inquiry, it is well to note that all subsequent militia legislation has retained and confirmed the two basic departments contained in the Dick Act—a limited number of trained citizen-soldiers comprising an organized militia and a Federal duty to supply all standard arms and ammunition necessary to the maintenance and efficiency of the organized militia.

¹⁰ This is not to say, however, that Congress has not made some provision for the training of the Reserve Militia. For a description of the United States Army's civilian marksmanship program, see Newton and Zimring, *Firearms and Violence in American Life*, A Staff Report to the National Commission on the Causes and Prevention of Violence, Appendix H.

For the reasons stated above, we have concluded that none of the bills presently under consideration would violate the Second Amendment. The Second Amendment confers no individual right to bear arms and limits Federal power with respect to keeping and bearing arms only where the exercise of such power would interfere with the Federal Government's obligation to maintain a militia in addition to a standing army. Even during periods of benign Congressional neglect, it is highly doubtful that handguns bore any reasonable relationship to the maintenance and efficiency of a well regulated militia. Subsequent to the passage of the Dick Act, however, no doubt can remain that Congress has made what it believes to be adequate provision for the arming of the militia by providing that the Federal Government is to supply all such arms. Indeed, considered logistically, such an approach seems far more likely to be promotive of a well regulated militia than placing reliance on private firearms ownership. We have therefore concluded that legislation of whatever form which prohibits, limits, or qualifies, private handgun ownership will have no adverse effect upon the maintenance of a well regulated militia and consequently will not be deemed to violate the Second Amendment.

II. COMMERCE CLAUSE

As noted in *United States v. Cruikshank*, *supra*, the Federal government is a government of limited powers. As the Court therein stated, "within the scope of its powers, as enumerated and defined, it is supreme and above the States; but beyond, it has no existence." 92 U.S. at 550. As a consequence, it is not sufficient that legislation simply avoid overstepping express limitations upon Federal action and incursions upon rights guaranteed by the Constitution. The legislation must also have as its basis one of the powers granted the Federal Government under the Constitution. For the reasons hereinafter stated, we have concluded that Federal handgun legislation, including legislation which would prohibit the private intrastate possession of handguns, can be sustained as within the scope of the powers granted the Federal Government by Article I, Section 8, Clause [3] of the Constitution, which provides:

"The Congress shall have the Power To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

In *Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1 (1824), the Supreme Court, per Mr. Chief Justice Marshall, indicated the scope and nature of the Federal grant by in turn defining "commerce" and "among the several States":

"The subject to be regulated is commerce; and . . . to ascertain the extent of the power, it becomes necessary to settle the meaning of the word. The counsel for the appellee would limit it to traffic, to buying and selling, or the interchange of commodities . . . but it is something more: it is intercourse . . . between nations, and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse." 22 U.S. at 189-90.

"The subject to which the power is next applied, is to commerce, 'among the several states.' The word 'among' means intermingled. . . .

... [I]t may very properly be restricted to that commerce which concerns more states than one. . . . The genius and character of the whole government seems to be, that its action is to be applied to all the external concerns of the nation, and to those internal concerns which affect the states generally; but not to those which are completely within a particular state, which do not affect other states, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the government." 22 U.S. at 194-95.

Although the intervening decisions by the Supreme Court departed from the views expressed by the Court in *Gibbons v. Ogden*, *supra*, the broader view of the Commerce Clause expressed by Mr. Chief Justice Marshall has been fully restored. *Perez v. United States*, 402 U.S. 146, 151 (1971).²¹ Under this broader view, matters involving commerce are reserved to the States only if (1) a particular concern is contained completely within a particular State, (2) such concern does not affect other States and (3) it is not necessary for the Federal Government to interfere in such matters for the purpose of executing some general powers of government. If any of these factors is present, the particular

²¹ Certain aspects of these departures which are material to this opinion are discussed *infra*.

concern is within the scope of the power granted Congress by the Commerce Clause. As the Court noted in *Perez*, *supra*:

"The Commerce Clause reaches, in the main, three categories of problems. First, the use of channels of interstate or foreign commerce which Congress deems are being misused, as, for example, the shipment of stolen goods (18 U.S.C. §§ 2312-2315) or of persons who have been kidnaped (18 U.S.C. § 1201). Second, protection of the instrumentalities of interstate commerce, as, for example, the destruction of an aircraft (18 U.S.C. § 32), or persons or things in commerce, as, for example, thefts from interstate shipments, (18 U.S.C. § 659). Third, those activities affecting commerce." 402 U.S. at 150.

It is beyond dispute that the Commerce Clause gives Congress the power to legislate with respect to purely intrastate activities affecting interstate commerce. See *United States v. Perez*, *supra*; *Heart of Atlanta Motel, Inc. v. Women's Sportsacar Mfrs. Assn.*, 336 U.S. 460, 464 (1949); *Wickard v. Filburn*, 317 U.S. 111 (1942); *United States v. Wrightwood Dairy Co.*, 315 U.S. 110 (1942); *United States v. Darby*, 312 U.S. 100 (1941). In *Darby*, *supra*, the defendant had been charged with violating Sections 15(a)(1) and 15(a)(2) of the Fair Labor Standards Act. The Supreme Court reversed the district court decision quashing the charges in the indictment under Section 15(a)(1) (prohibiting shipping in interstate commerce goods manufactured by employees paid substandard wages) on the basis of Congress' plenary power to regulate the actual flow of goods in interstate commerce and to make its own judgment as to those activities which should be prohibited from using interstate commerce. In so holding the Court expressly overruled *Hammer v. Dagenhart*, 247 U.S. 251 (1918). The Court also reversed the district court's action quashing the charges in the indictment under Section 15(a)(2) (prohibiting the employment of persons at substandard wages in the production of goods for interstate commerce) and indicated that the conviction was sustainable independently of Section 15(a)(1). Although all of the acts held to violate Section 15(a)(2) were local acts and although Section 15(a)(2), considered independently of Section 15(a)(1), could not be sustained on the denial of interstate instrumentality theory, the Court nonetheless sustained that charge of the indictment because of the effect which such local activities had upon interstate commerce, stating:

"As we have said the evils aimed at by the Act are the spread of substandard labor conditions through the use of the facilities of interstate commerce for competition by the goods so produced with those produced under the prescribed or better labor conditions; and the consequent dislocation of the commerce itself caused by the impairment or destruction of local businesses by competition made effective through interstate commerce.

"The means adopted by § 15(a)(2) for the protection of interstate commerce by the suppression of the production of the condemned goods for interstate commerce is so related to the commerce and so affects it as to be within the reach of the commerce power." 312 U.S. at 122-23.

The Supreme Court therefore held that Section 15(a)(2) was within the reach of the commerce power because of the effect which substandard labor conditions would have upon interstate commerce.

In *United States v. Wrightwood Dairy Co.*, *supra*, the Supreme Court adopted the same rationale to enforce an order issued by the Secretary of Agriculture under the Agriculture Marketing Agreement Act. The respondent contended that the provisions of the Act could not be imposed upon its purely intrastate operation, although it marketed its products in a designated market area in competition with milk shipped in interstate commerce. Noting that the Circuit Court of Appeals had found the order as applied to the respondent beyond the scope of authority granted by the commerce power, the Court disagreed, stating:

"Congress plainly has power to regulate the price of milk distributed through the medium of interstate commerce, . . . and it possesses every power needed to make that regulation effective. The commerce power is not confined in its exercise to the regulation of commerce among the states. It extends to those activities intrastate which so affect interstate commerce, or the exertion of the power of Congress over it, as to make regulation of them appropriate means to the attainment of a legitimate end, the effective execution of the granted power to regulate interstate commerce." 315 U.S. at 118-19.

The same result was reached in *Wickard v. Filburn*, 317 U.S. 111 (1942), where appellee sought to enjoin enforcement against him of the market penalties imposed by the May 26, 1941 amendments to wheat marketing quota provisions of the Agricultural Adjustment Act of 1938 and to obtain a declaratory judgment that those provisions, as applied to him were unconstitutional because they were not within the commerce power. Appellee, an Ohio farmer, had planted 23 acres of wheat, 11.9 acres of which are "excess acreage" under the Act. From the excess acreage, appellee harvested 239 bushels of wheat, which under the terms of the Act constituted farm marketing excess, subject to a penalty of \$.49 per bushel. The appellee neither paid the penalty nor postponed or avoided it by storing or delivering the excess in accordance with regulations prescribed by the Secretary of Agriculture. Noting that the case would have been governed by *Darby*, *supra*, but for the fact that the Act and its penalties applied to wheat consumed on the premises as well as wheat sold, the Supreme Court upheld the Act, citing *Houston, E&W T.R. Co. v. United States (Shreveport Rate Cases)*, 234 U.S. 342 (1914) and stating:

"But even if appellee's activities be local and though it may not be regarded as commerce, it may still, whatever its nature, be reached by Congress if it exerts a substantial economic effect on interstate commerce, and this irrespective of whether such effect is what might at some earlier time have been defined as 'direct' or 'indirect'." 317 U.S. at 125.

A substantial effect upon interstate commerce was again held sufficient to sustain legislation under the commerce power in *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241 (1964), where the appellant sought a declaratory judgment that the "public accommodations" provisions of the Civil Rights Act of 1964 were unconstitutional as applied to its activities, which is described as purely local in nature. Without agreeing to this characterization of appellant's activities, the Court stated:

"It is said that the operation of the motel here is of a purely local character. But, assuming this to be true, '[i]f it is interstate commerce that feels the pinch, it does not matter how local the operation which applies the squeeze.' *United States v. Women's Sportswear Mfrs. Assn.*, 336 U.S. 460, 464 (1949) As Chief Justice Stone put it in *United States v. Darby*, *supra*:

"The power of Congress over interstate commerce is not confined to the regulation of commerce among the states. It extends to those activities intrastate which so affect interstate commerce or the exercise of the power of Congress over it as to make regulation of them appropriate means to the attainment of a legitimate end, the exercise of the granted power of Congress to regulate interstate commerce"

"Thus the power of Congress to promote interstate commerce also include the power to regulate the local incidents thereof, including local activities in both the States of origin and destination, which might have a substantial and harmful effect upon that commerce." 379 U.S. at 258.

In his concurring opinion in *Heart of Atlanta*, Mr. Justice Black concisely summarized the basis of the Court's holding in this and its prior decisions:

"[S]ince the *Shreveport Case* this Court has steadfastly followed, and indeed has emphasized time and again, that Congress has ample power to protect interstate commerce from activities adversely and injuriously affecting it, which but for this adverse effect on interstate commerce would be beyond the power of Congress to regulate." 379 U.S. at 272.¹²

For the same reasons, and having found that Congress had clearly determined that intrastate loansharking activities as a class of activities had a substantial and adverse effect upon interstate commerce, the Court in *Perez v. United States*, *supra* sustained a conviction under Title II of the Consumer Protection Act.

If the particular legislation addresses activities which, considered alone or as a class, have a substantial adverse effect upon interstate commerce, the legislation is sustainable under the commerce power. *Perez v. United States*, *supra*; *Heart of Atlanta Motel, Inc. v. United States*, *supra*; *Wickard v. Filburn* *supra*; *United States v. Wrightwood Dairy Co.*, *supra*; *United States v. Darby*, *supra*. If the legislation has as its effect the protection of interstate commerce from

¹² Archibald Cox has suggested that the Equal Protection Clause of the Fourteenth Amendment itself was a "more natural source of [Federal] power in *Heart of Atlanta* and its companion case, *Katzbach v. McClung*, 379 U.S. 294 (1964) than the Commerce Clause." Cox, *The Warren Court*, at 54.

which adversely effect such commerce, it is immaterial that its exercise may be attended by the same incidents which attend the exercise of the police power by the States. *United States v. Darby*, 312 U.S. at 114. See also *Perez v. United States*, *supra*.

As the Supreme Court stated in *Heart of Atlanta Motel, Inc.*, *supra*, once Congress has enacted legislation having as its basis the commerce power, the only questions are (1) whether Congress had a rational basis for finding that the activities sought to be regulated adversely affect commerce and (2) whether the means selected to eliminate the activities are reasonable and appropriate to that end. 379 U.S. at 258. Applying this standard and the precedents cited above to the legislation presently pending before the Crime Subcommittee of the House Judiciary Committee, we have concluded that each of these legislative proposals is sustainable under the commerce power.

There is ample evidence available that crimes committed with firearms, and particularly crimes committed with handguns, have a substantial and adverse effect upon interstate commerce. Much of this information has been considered by the Congress, the courts and special Presidential commissions in their continued review and consideration of previous gun control laws. Although we understand that more recent information has been made available to or has been developed by the Council, it will suffice for the purposes of this opinion to set forth the following statistics considered by the Eighth Circuit Court of Appeals in *United States v. Synnes*, 438 F.2d 764 (8th Cir. 1971), where the defendant, a convicted felon, was convicted of possession of a firearm in violation of the Omnibus Crime Control and Safe Streets Act of 1968:

"While no extensive debate or hearings were held in relation to the statute, we think it clear that Congress had before it sufficient data from which it could determine that the required nexus existed between interstate commerce and possession of a firearm by a convicted felon. For example, *The Challenge of Crime in a Free Society*, a report by the President's Commission on Law Enforcement and the Administration of Justice, published in February, 1967, estimated the economic cost of homicide at \$750,000,000 per year; of robbery, burglary, larceny and auto theft at over \$600,000,000 annually. Yearly private and public expenditures for crime prevention, detection and correction were estimated to exceed \$8,000,000,000. Without question, these appalling costs substantially burden interstate commerce. The Report went on to indicate that in 1965, 5,600 murders, 34,700 aggravated assaults and the vast majority of the 68,400 armed robberies were committed by means of firearms. It is self-evident that such widespread firearms-related crime does have a substantial impact on interstate commerce. Finally, the Report indicates the special danger represented by a convicted felon:

"The most striking fact about offenders who have been convicted of the serious crimes of violence and theft is how often many of them continue to commit crimes."

The Challenge of Crime in a Free Society, *supra* at 45.

"Data available subsequent to the passage of § 1202 reaffirms the nexus between interstate commerce and possession of a firearm by a felon. J. Edgar Hoover, in *Crime in the United States* (1969), indicates that nearly seventy-five percent of all persons arrested for robbery have prior criminal convictions. *Firearms and Violence in American Life*, A Staff Report to the National Commission on the Causes and Prevention of Violence, states that 'Robbery is a crime made infinitely more possible by having a gun.' The same report indicates that an assault with a firearm is five times as likely to be fatal as one with a knife." 438 F.2d at 767-68.

See also *United States v. Cabbler*, 429 F.2d 577 (4th Cir. 1970), *cert. den.* 400 U.S. 901 (1970); *United States v. Donofrio*, 450 F.2d 1054 (5th Cir. 1971); *Stevens v. United States*, 440 F.2d 144 (6th Cir. 1971); and *United States v. Daniels*, 431 F.2d 697 (9th Cir. 1970). But cf. *United States v. Bass*, 434 F.2d 1296 (2d Cir. 1970), *aff'd on other grounds*, 404 U.S. 336 (1971).

Although the *Synnes* case involved possession of a firearm by a felon, we believe that the same arguments would support any measure which had as its purpose the control of handgun crime and its attendant effects upon interstate commerce. Information presently available supports the conclusion that crime in general has a substantial effect upon interstate commerce, that firearms in general, and handguns in particular, are used in a substantial number of such crimes and are a significant aid to the criminal in the perpetration of such crimes, and that a decrease in the number of gun crimes could reasonably be expected to decrease the number of such crimes and thereby lessen the burden

on interstate commerce. We also believe that although each of the types of bills before the Crime Subcommittee takes a different approach to the problem, each would be sustained as a reasonable and appropriate means to this constitutionally justifiable end.

We do not believe that the Supreme Court's decision in *Bass v. United States*, 404 U.S. 336 (1971), requires a contrary conclusion. The respondent was convicted of possessing firearms in violation of Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. App. § 1202(a), which provided, in pertinent part:

"Any person who—

"(1) has been convicted by a court of the United States or of a State or any subdivision thereof of a felony . . . and who receives, possesses, or transports in commerce or affecting commerce . . . any firearm shall be fined not more than \$10,000 or imprisoned for not more than two years, or both."

The respondent was concededly a convicted felon and was found in possession of two firearms. However, there was no allegation in the indictment, and no attempt to prove at trial, that the respondent possessed the firearms "in commerce or affecting commerce." Respondent contended alternatively that (1) the statute did not reach possession of a firearm not shown to have been "in commerce or affecting commerce" and (2) if the statute did not require that the firearms be shown to have been "in commerce or affecting commerce," the statute was not sustainable as an exercise of the commerce power. The United States Court of Appeals for the Second Circuit reversed, indicating that if the Government's construction of the statute were accepted, there would be substantial doubt as to its constitutionality.

The Supreme Court affirmed the Second Circuit's actions, but "for substantially different reasons." 404 U.S. at 338-39. Noting that the statute was ambiguous in the critical respect (the Government had conceded in its brief that the statute was "not a model of logic or clarity") and that the statute imposed criminal sanctions, the Court indicated that it would not interpret the statute as extending to a domain traditionally reserved to the states *in the absence of a clearer direction from Congress*. 404 U.S. at 339. Significantly, the Court did not indicate that they would view such legislation as beyond Congress' power under the Commerce Clause. To the contrary, implicit in the Court's holding was the fact that Congress had the power to enact a statute of broad applicability but had simply failed to manifest its intent to reach such activities.

The Supreme Court indicated that it was adopting the narrower reading of the statute for two reasons. First, the Court felt that ambiguity in a criminal statute should be resolved in favor of lenity, both because our traditions require a fair warning of what constitutes proscribed conduct and because legislatures, rather than courts, should define criminal activity. Second, since the conduct involved could readily have been denounced as criminal by the States and would have the effect of rendering traditionally local criminal conduct a matter for federal enforcement, the Court would not presume Congress to have intended such a change in the absence of a clear statement that the Congress had "in fact faced, and intended to bring into issue, the criminal matters involved in the judicial decision." 404 U.S. at 349.

In the presence of a clear and manifest intent to reach such conduct, however, these arguments are inapposite. The fatal flaw in *Bass* was Congress' failure to clearly state that it considered possession of a firearm by felons *as a class activity*, as opposed to a particular act of possession, to affect commerce. In our opinion, had Congress clearly manifested this intent, the conviction would have been sustained.

Although the Supreme Court's opinion in *Bass* does not indicate that legislation such as that now being considered by the Crime Subcommittee is subject to constitutional challenge on the ground that it exceeds the commerce power, there are nonetheless lessons to be learned from the Court's opinion in *Bass*. First, if the legislation seeks to reach local activities which have traditionally been subjects of state regulation, Congress should clearly manifest its intent to reach such activities. Although the local character of activities does not place such activities beyond the ambit of the commerce power, the local nature of the activities has long been recognized as an important criteria where doubt remains as to the intent of Congress to reach a particular class of activities. See *Wickard v. Filburn*, 317 U.S. 111, 124 (1942). Moreover, although the Supreme Court has previously indicated that Congress may itself determine whether intrastate activities have an effect upon interstate commerce or may delegate that function to either an administrative agency or to the courts (see

United States v. Darby, 312 U.S. 100, 120 (1941)), the Court's opinion in *Bass* indicates that if the legislation involves either local activities the regulation of which is normally reserved to the states, or the imposition of criminal sanctions, the agency or the courts should construe the ambit of the statute as narrowly as possible. Congress should therefore clearly express its intent to treat such activities as activities which, individually or as a class, affect commerce and are intended to be a subject of federal regulation. Moreover, in view of the Court's concern that persons be clearly and adequately forewarned when conduct is to be proscribed and criminal sanctions imposed, great care should be taken to clearly indicate the intent to reach specific activities and to carefully define the nature and scope of the prohibitions established. Although our principal discussion of classifications created by the pending legislation appears in the succeeding section of this opinion, great care should be taken to carefully define activities giving rise to criminal sanctions in order to avoid having the statute declared void for vagueness.

III. DUE PROCESS

"No person shall . . . be deprived of life liberty, or property, without due process of law . . ." Amendment V.

The courts have long interpreted the Due Process Clause as requiring both procedural fairness and "substantive due process"—basic fairness in the exactment of the statute itself. In determining the standard or the standards applied to determining whether this basic fairness exists, we have examined cases decided under both the Due Process Clause of the Fifth Amendment and the Equal Protection Clause of the Fourteenth Amendment. Through the process of "reverse incorporation", the standards established with respect to the States by the Equal Protection Clause have been said to apply equally to a determination of whether Federal legislation satisfies the Due Process Clause. *Bolling v. Sharpe*, 347 U.S. 497 (1954). As the Supreme Court indicated in *Richardson v. Belcher*, 404 U.S. 78 (1971), legislation which meets the test articulated for state legislation under the Equal Protection Clause "is perforce consistent with the due process requirement of the Fifth Amendment." 404 U.S. at 81.

The courts in effect apply two standards in determining whether classifications created by legislation are violative of the due process and equal protection guarantees. If the statute in question affects constitutionally vested rights, courts will subject the statute to close scrutiny and only a showing of compelling governmental interest will be permitted to justify a classification in the statute which gives rise to a due process or equal protection objection. *See, e.g., Chicago Police Department v. Mosley*, 403 U.S. 92, 98 (1972); *Shapiro v. Thompson*, 394 U.S. 618 (1969)¹³. If no constitutionally vested right is involved, however, a different standard is applied. In such cases, the courts simply examine the statute to determine whether the legislative classification is rationally based and free from invidious discrimination and whether an appropriate governmental interest is furthered by the classification. *Richardson v. Belcher, supra*; *Dandridge v. Williams*, 397 U.S. 471, 487 (1970); *Shapiro v. Thompson*, 394 U.S. 618 (1969).

For the reasons noted in Section I of this opinion, we have concluded that the Second Amendment does not confer upon individuals the right to bear arms. As a consequence, courts would apply the second of the standards mentioned above in determining whether federal handgun control legislation satisfies the due process requirements of the Fifth Amendment. As the Eighth Circuit Court of Appeals noted in reaching the same conclusion in *United States v. Synnes, supra*, "legislation restricting the possession of firearms 'will not be set aside

¹³ The courts have applied the same test to statutes having inherently suspect classifications. To date, this theory has been applied principally in cases of alleged racial discrimination. It should be noted, however, that the English constitutional history surrounding James II's deprivation of arms to Protestants, while permitting Catholics to retain their arms, would indeed be unconstitutional, but on due process rather than Second Amendment grounds. *See* Newton and Zimring, *Firearms and Violence in American Life*. A Staff Report to the National Commission on the Causes and Prevention of Violence, Appendix J. It should also be noted that the Supreme Court has declared one firearms statute unconstitutional on this ground. In *Tot v. United States*, 319 U.S. 463 (1943), the Court refused to uphold a conviction where the statute created a presumption that, because of his status as a convicted felon, the accused (1) received a firearm or ammunition in interstate commerce and (2) received the firearm or ammunition after the effective date of the statute. The Court found no rational basis for concluding that the felon's status as such could in any way be said to sustain these presumptions.

if any state of facts reasonably may be conceived to justify it." 438 F.2d at 771.

The legislation presently pending before the Crime Subcommittee in certain instances does create classifications. For example, much of the legislation would place restraints or prohibitions on the possession or availability of handguns, but would place no comparable restrictions on rifles and shotguns. Similarly, the so-called "Saturday Night Special" bills would place restrictions on the possession or availability of one species of handgun while placing no comparable restrictions on other handguns. Whether such classifications are "rationally-based" must be determined with a view to their relation to the governmental interest to be advanced—the decrease in firearms crime and its concomitant effect upon interstate commerce.

Perhaps the most effective way to deal with the problem of firearms crime would be to enact and enforce legislation which would ban the private possession of all firearms. To the extent that legislation does not reach that goal, it can be expected to be only partially effective. Bills which would ban the manufacture, sale and possession of all handguns would not prevent or inhibit crimes committed with shotguns and rifles; bills prohibiting the manufacture and sale of all handguns would similarly not prevent or inhibit crimes committed with shotguns and rifles, nor would they prevent or inhibit crimes committed with handguns presently possessed by the perpetrators; bills prohibiting the manufacture and sale of "Saturday Night Specials" would similarly not deal with the problem of crime committed with rifles and shotguns and with existing weapons, nor would they prevent or inhibit the commission of crime with handguns yet to be manufactured which are not classified as "Saturday Night Specials." But the fact that classifications created in legislation make it less than maximally effective, or that it results in the legislation treating only a portion of the perceived problem, does not mean that the classification results in the statute failing to meet the minimum standards of fairness embodied in the due process requirement of the Fifth Amendment. *Cf. Semler v. Dental Examiners*, 294 U.S. 608 (1935).

Based on data now available, each of the classifications which the proposed legislation contains would in our judgment satisfy the minimal standards of fairness necessary to avoid having the classifications viewed as "invidiously discriminatory." Although all firearms undoubtedly contribute to crime, statistics show the handgun to be a particular useful tool in crime. Moreover, rifles and shotguns have other demonstrable uses (principally hunting and protection from wildlife in outlying areas) which Congress could properly determine deserve consideration in national firearms legislation. In view of statistics showing that the so-called "Saturday Night Specials" are involved in a high percentage of handgun crimes and the limited sporting uses which are available for other types of handguns, we are similarly of the opinion that legislation which would seek to control the manufacture, sale and possession of only such weapons would satisfy the minimal requirements of the Fifth Amendment.

IV. SELF-INCRIMINATION

"No person shall . . . be compelled to be a witness against himself" Article V.

Although the language of the Fifth Amendment itself seems to limit the privilege against self-incrimination to criminal proceedings, the Supreme Court has ruled that the privilege may be invoked not only by witnesses required to give information or evidence of a testimonial nature in a criminal proceeding, but also by persons required to submit information to the government in compliance with a statutory requirement. *Haynes v. United States*, 390 U.S. 85 (1968); *Marchetti v. United States*, 390 U.S. 39 (1968); *Albertson v. Subversive Activities Control Board*, 382 U.S. 70 (1965). The privilege against self-incrimination would consequently be applicable to disclosures of both a testimonial and non-testimonial nature under the legislative proposals presently pending before the Crime Subcommittee.

The Fifth Amendment privilege against self-incrimination has not been interpreted as so inviolate, however, as to prohibit the substitution of a constitutional alternative to the privilege. The Supreme Court has indicated that a reasonable balance must be struck between the Government's legitimate need for the information necessary to effectuate its regulatory responsibilities and

the individual's constitutional privilege against self-incrimination. *Kastigar v. United States*, 406 U.S. 441, 447 (1972); *California v. Byers*, 402 U.S. 424, 434-458 (1971) (Harlan, J., concurring). This reasonable balance has been provided by immunity statutes.

Historically, there have been three categories of federal immunity statutes—those which provide “use immunity” (protecting the individual against the use of the compelled testimony or evidence in any subsequent future prosecution), those which provide “use and fruits immunity” (protecting the individual against both the use of the compelled testimony or evidence itself and against the use of other evidence derived from investigatory leads gained through the compelled testimony or evidence in any subsequent prosecution), and “transactional immunity” (which provides immunity from prosecution for any matter contained in the compelled testimony or information). As the following analysis indicates, the Supreme Court has found two of these three types of statutory grants to be constitutionally sufficient substitutes for the Fifth Amendment privilege against self-incrimination.

In *Counselman v. Hitchcock*, 142 U.S. 547 (1892), the petitioner had been held in contempt when he refused to answer certain questions concerning his knowledge of an involvement in interstate ratefixing on midwestern railroads despite being granted immunity under Section 860 of the Revised Statutes, a “use immunity” statute. On review, the Supreme Court noted that the individual subject to the request for testimony or information could not be required to waive his privilege against self-incrimination unless the immunity provided in its stead was “so broad as to have the same extent in scope and effect.” 142 U.S. at 585. Examining the statute, the Court found that the immunity granted “could not, and would not, prevent the use of his testimony to search out other testimony to be used in evidence against him . . .” 142 U.S. at 564. The Court consequently found the statutory grant to be a constitutionally insufficient substitute for the privilege on the grounds that the statute, although preventing use of the compelled testimony itself, did not prevent the use of evidence obtained through investigatory leads gained from the compelled testimony. The Court went on to add, however, that for an immunity statute to be a constitutional acceptable substitute for the Fifth Amendment privilege, it “must afford absolute immunity against future prosecution for the offense to which the question relates.” 142 U.S. at 586.

The language in *Counselman* suggested that only “transactional immunity” was an adequate substitute for the Fifth Amendment privilege. Accordingly, Congress adopted this standard in enacting subsequent immunity statutes. In *Brown v. Walker*, 161 U.S. 591 (1896), the Supreme Court held that the transactional immunity provided by the Compulsory Testimony Act of 1893 was an adequate substitute for the Fifth Amendment privilege. In so holding, however, the Court stated, “If . . . the object of the [Fifth Amendment] provision be to secure the witness against a criminal prosecution, which might be aided directly or indirectly by his disclosure . . . a statute absolutely securing to him immunity from prosecution would satisfy the demands of the clause in question.” 161 U.S. at 595. The Court therefore suggests that both “use and fruits” and “transactional” immunity might be constitutionally acceptable substitutes for the privilege.

A number of cases decided subsequent to *Brown v. Walker* confirmed the constitutional sufficiency of “transactional” immunity and clarified the scope and purpose of the privilege which it was to replace. The privilege was said to be personal in nature, not extending to testimony tending to incriminate another or a corporation. *Hale v. Henkel*, 201 U.S. 43 (1906). The matter revealed in the compelled testimony were required to be factually related to the subsequent prosecution. *Heike v. United States*, 227 U.S. 131 (1913). And, as noted above, the privilege was held to be properly invoked not only by persons compelled to give testimony in a criminal proceeding, but also by persons required to submit information in response to a request for information made by a government agency or a congressional committee. See, e.g., *Albertson v. Subversive Activities Control Board*, *supra*.

In *Albertson*, the petitioners refused to register under the Subversive Activities Control Act of 1950 on the grounds that the registration requirement violated their Fifth Amendment privilege against self-incrimination. The statute provided only “use immunity,” previously found constitutionally deficient in

Counselman. The Court sustained the petitioner's claim, finding (1) a substantial risk of self-incrimination if petitioners complied with the Act, (2) that the Fifth Amendment privilege would support non-compliance with a statute directed at a select group inherently suspect of criminal activity in an area permeated with criminal statutes, and (3) that the "use immunity" provided to supplant the privilege was a constitutionally insufficient substitute.

Recent decisions had also indicated, however, that if directly confronted with a Federal statute granting "use and fruits" immunity, the Supreme Court would find it to be a constitutionally sufficient substitute for the Fifth Amendment privilege. In *Murphy v. Waterfront Commission*, 378 U.S. 52 (1964), petitioners appeared before the Waterfront Commission of the State of New York in response to a subpoena and were granted "transactional immunity" by the states of New York and New Jersey. They nevertheless refused to testify, claiming that their Fifth Amendment privilege was not adequately supplanted since they remained subject to federal prosecution for matters revealed in their testimony. The Supreme Court agreed. In so holding, however, the Court did not indicate that a state immunity grant would be constitutional only if "transactional immunity" extended to Federal prosecutors as well. Rather, the Court ruled that when a state witness is required to testify, "the Federal Government must be prohibited from making any such use of compelled testimony and its fruits." 378 U.S. at 79. See also *Murphy v. Waterfront Commission*, 378 U.S. at 92-93 (White, J., concurring).

Taken in conjunction with the Court's holding in *Malloy v. Hogan*, 378 U.S. 1 (1964), where the Court found the Fifth Amendment applicable to state as well as Federal proceedings under the Fourteenth Amendment, the Court's decision in *Murphy* indicated that the Court would sustain a Federal "use and fruits" immunity statute, for if protection against use and fruits was a sufficient substitute for the privilege in an interjurisdictional context, why would not the same standards apply where the sole question was the nature of one jurisdiction's grant? Congress provided such a test under the witness immunity provisions of the Omnibus Crime Control and Safe Streets Act of 1968, presently codified at 18 U.S.C. §§ 6002, 6003. In *Kastigar v. United States*, *supra*, petitioners refused to answer questions before a United States grand jury despite a prior grant of "use and fruits" immunity. The petitioners contended that the grant, which did not provide "transactional immunity," was not a constitutionally sufficient substitute for the Fifth Amendment privilege, citing *Councilman v. Hitchcock*, *supra*. The Court did not agree. Referring to the language in *Councilman* which seemed to require immunity from prosecution if the privilege was to be supplanted as dictum, the Court stressed that the decision in *Councilman* was based on the Court's finding that mere use immunity could not and would not prevent the use of testimony to search out other information to use against him. Predictably, the Court found its decision well based in its prior decisions in *Murphy* and *Malloy*. As the Court stated, "use and fruits immunity" "leaves the witness and the prosecutorial authorities in substantially the same position as if the witness had claimed the Fifth Amendment privilege . . ." 406 U.S. at 462. The grant of such immunity consequently acts as a constitutionally sufficient substitute for the privilege.

The circumstances under which information is requested of a person seeking to invoke the Fifth Amendment privilege may determine whether the privilege is properly invoked and whether a constitutionally sufficient grant of immunity is necessary to compel testimony. In *United States v. Sullivan*, 274 U.S. 259 (1927) and *Shapiro v. United States*, 335 U.S. 1 (1948), the Court established what has become known as the "required records" exception to the Fifth Amendment privilege. In *Sullivan*, the Court rejected the petitioner's claim that he could fail to file an income tax return solely on the basis of his claim of privilege as to a small portion of the return. The questions on the return were neutral on their face and directed at the public at large an essentially non-criminal area of regulatory inquiry. In *Shapiro*, the Court failed to sustain the petitioner's claim of the Fifth Amendment privilege with respect to sales records kept pursuant to regulations promulgated by the Price Administrator under the Emergency Price Control Act. Again, the required information related to an essentially non-criminal and regulatory area of inquiry.

In contrast, when the criteria set forth in *Albertson v. Subversive Activities Control Board*, *supra* are present, the privilege is properly invoked and infor-

mation disclosures may be compelled only if the privilege is supplanted by a constitutionally acceptable substitute. Thus if the information required is required of a select group of people inherently suspect of criminal activities, or if an area of regulation is permeated with criminal statutes so that the compelled disclosures will themselves confront the person claiming the privilege with substantial hazards of self-incrimination, constitutionally sufficient immunity must be provided if the individual is to be compelled to comply with the statutory mandate. Information of the type sought by the registration and licensing bills presently being considered by the Crime Subcommittee certainly present such a hazard.¹⁴ For these reasons, and upon the basis of the precedents hereinafter cited, we have concluded that firearms regulation is an area which requires the application of the *Albertson* rule and the grant of constitutionally sufficient immunity.

In *Haynes v. United States*, 390 U.S. 85 (1968), the petitioner was convicted under 26 U.S.C. § 5851 of knowingly possessing a "firearm" which had not been registered under 26 U.S.C. § 5841. The registration requirements sought to be applied to petitioner provided that the possessor of a "firearm" be required to register if the provisions as to transfers, making, and importation (including Section 5841) were not complied with. As interpreted by the Court, however, Section 5841 itself made it a crime to possess an unregistered "firearm"; moreover, information obtained under Section 5841 could be turned over to state and local law enforcement officials. Noting that the Act's registration requirements were directed principally at persons who obtained a firearm in violation of other requirements in the Act and were therefore threatened with substantial hazards of self-incrimination, and that the Act contained no immunity provision, the Court found that a proper claim of self-incrimination provided a full defense to prosecutions for either failure to register under Section 5841 or for possession of an unregistered firearm under Section 5851.

In response to the Court's decision in *Haynes* and in its companion cases, *Marchetti v. United States*, 390 U.S. 39 (1968) and *Grosso v. United States*, 390 U.S. 62 (1968), Congress eliminated the constitutional defects of the statute by amending the National Firearms Act to (1) require registration of "firearms" only by possessors who lawfully make, manufacture and import them, (2) require transferors to register them to transferees by submitting the transferee's fingerprints and photograph, together with the certificate of a law enforcement official, and (3) place limitations on the use of registration information which in effect gave the party compelled to supply the information "use and fruits" immunity from both the Federal Government and the states. In *United States v. Freed*, 401 U.S. 601 (1971), the Supreme Court sustained this statute upon a finding of no substantial hazard of self-incrimination, supporting its finding with the following facts:

(1) The transferee was not required to register under the Act and the information supplied made him the lawful owner of the "firearm";

(2) The statute's use restrictions barred any use of the information compelled to be disclosed on the registration form in federal or state criminal proceedings for prior or concurrent offenses; and

(3) The Solicitor General indicated that as a matter of practice the information supplied was not made available to federal or state prosecutorial authorities.

In his concurring opinion, Mr. Justice Brennan indicated that the immunity was a sufficient substitute for the constitutional privilege because it would prohibit the use of the information, or its fruits, by either federal or state authorities. 401 U.S. at 611.

We have therefore concluded (1) that the constitutional privilege would pertain to the disclosures required under the proposed legislation and (2) that the Constitution requires that use and fruits immunity, applicable to both federal and state prosecutions, for prior or contemporaneous crimes, be extended in order to compel such information in the face of an assertion of constitutional privilege. In this respect, we wish to note that a number of the licensing and registration bills, and bills providing for gun club licensing, are constitutionally

¹⁴ The registration and licensing bills and the bills banning the private possession of handguns, but permitting pistol clubs to maintain such firearms would require disclosure of the model, caliber and serial number of the weapon, the circumstances of receipt, and certain personal information concerning persons using the weapons.

deficient, providing only "use immunity." We would suggest that all such bills be revised to provide immunity applicable both to the compelled information itself and to investigatory leads obtained therefrom. The bill should also clearly specify an intent to extend this immunity to state as well as federal prosecutions.¹⁸

Very truly yours,

CHARLES LISTER.
A member of the firm.

Mr. CONYERS. Thank you very much, gentlemen.

Do you have any concluding remarks that you would like to make?

Mr. CAMPBELL. No, Mr. Chairman. We would be prepared to answer any questions.

Mr. CONYERS. First of all, I would like to include in the record this very excellent brief that has been prepared at your request. I want to give it very careful consideration and will do so.

Let us get down to what I guess is the main point of differences between those who want to do something about it. What is your objection to registration?

Mr. CAMPBELL. Well, our basic objection to registration, Mr. Chairman, is that we do not believe that it will be adequately successful in reducing handgun violence in relation to the effort and the cost that such a regime would involve. The President has evidently reached that conclusion. And while I do not mean to suggest that he would support the position that our organization advocates, I do think he is correct in feeling that any system which contemplates the continued widespread ownership of handguns and the continued production of handguns adding to that inventory will not adequately impact on handgun violence. There are simply too many ways in which the weapon can move from the hands of the supposedly nonviolent possessor to the violent possessor. And sometimes that movement can occur simply by having the possessor become engaged with a family member or a friend and use his weapon. And sometimes it can occur when another member of the handgun owner's household gets access to the weapon—typically a teenager.

If it were the case, Mr. Chairman, that a registration system will work, why is it that we have so many minors at the present time using handguns in the commission of crime? We do have systems in place which are designed to keep guns out of the hands of minors. And yet as we all well know, the use of handguns, the increasing use of handguns by teenagers in crimes, is one of the things which has given rise to this outcry that we now hear.

Mr. CONYERS. Attorney Campbell, I feel a great additional responsibility in everything I do in producing a firearms bill which must guarantee to reduce the incidence of crime. I think that is a

¹⁸ We also wish to note a contradiction in H.R. 40. The voluntary delivery handgun provisions of that bill contemplate, and we have been informed intend to allow, voluntary turn-ins at any time after the bill's effective date. Compensation for such turn-ins would be limited to a period ending 180 days after the effective date. The sanction provisions of the bill, however, make it a crime to own a handgun more than 180 days after the effective date and establish no exclusions or immunities respecting later voluntary turn-ins. If the bill is intended to avoid impediments to later turn-ins, appropriate provision should be made either to exclude such turn-ins from the crimes subject to sanction or to establish appropriate immunity from prosecution for unlawful possession in such circumstances.

burden I may not be anxious to assume. First of all, we are all legislating presently, and we do not really know with any certainty what is going to work. I think that is at least one or three instances removed, and it should have some impact. It may not. All of the considerations that we have in mind, it seems to me to be perhaps allowing ourselves to be set up for some future criticism. If we say that, whatever the legislative product of this committee and the Congress is, we are now guaranteeing you that the crime rate is going to go down. Well, the crime rate might not go down next year in 1976. It might take until 1980 for the impact to be felt. The laws that we pass might not be efficiently administered. And maybe even if they are we do not know at what period in time rates will be specifically reduced. So, I as one member of this subcommittee, would not want to judge everything we are doing on the basis of whether it will or it would not reduce crime. If not, would you not agree that some kind of registration center or tracing center would be a great deal of help to law enforcement in terms of recording the location of weapons and how they flow into commerce, as well as giving us a more general impression of what is happening in this area of society and commercial activity that is bothering more and more people?

Mr. CAMPBELL. Mr. Chairman, two points, if I may, in response to your comments.

Taking the latter point first, about tracing. I would suppose that a registration and licensing system could be of some assistance to law enforcement officers, and to the detection and prosecution of criminals. But that brings me back to the point that I made earlier. By that time it is too late.

We are talking as seriously as we are at the present time about handgun control because of the terrible deficiencies of our criminal justice process. We have a conviction rate of 5 percent, which is not going to be changed much unless we make the kind of commitment and a national effort which there is presently no likelihood of our making. Against that background, the ability to trace some additional weapons, to bring a few more perpetrators of violent crimes before the bar of justice—that is not going to make much difference. We are looking in the gun control area for a way to intervene—for a way to do something about violence—that does not depend upon the criminal justice process.

Now, on the earlier point, I agree with you wholeheartedly that we should not oversell the impact which handgun control will have on crime in the near term. I do think that we can say, however, based on information that we have, that there is a direct relationship between handgun availability and violence, and that to the extent that you have reduced the number of handguns that would otherwise have been dispersed throughout our cities and other parts of our country, that you will have saved lives. You might, for example, find your homicide figures dropping somewhat as a result of strict handgun control, and you might find aggravated assault figures actually going up by that amount, in that the attack being made was not now deadly, because the perpetrator of the attack did not have a pistol readily at hand. So he had to use his fists, or a knife, or some weapon which is far less deadly than the handgun.

So, I think you are quite right in reminding all of us that we will have to look carefully and in a sophisticated manner to see the

changes that are going to occur here. But I think we can be confident that lives will be saved if handgun availability is reduced.

Mr. CONYERS. I do too.

Before I ask you to reiterate on just how we go about reducing the flow, let me try another little argument in support of registration.

The terribly deficient criminal justice system to which you refer could perhaps receive marked assistance if it were more efficient in its tracing of weapons used in the commission of crimes. This could perhaps lead to the solution of more of these offenses and even to an increase in the confidence of our citizenry in law enforcement. Further this would then, of course, attack the gun as a defensive myth. Concern over self-defense is the reason so many people are buying guns, more for defensive or offensive reasons than for recreational ones.

So, I would attempt to carry on this discussion by just suggesting that at least one or two points removed, there would be some increased efficiency in a registration system. It certainly would not be counterproductive; it would not hurt anybody. Yet it would inconvenience citizens to the extent that nearly all laws in some way or another do.

Have I persuaded you totally or at all?

Mr. CAMPBELL. Mr. Chairman, this is certainly an issue on which reasonable people can differ. I have read with interest and care Congressman McClory's incisive criticism of our position on this matter. But frankly, we remain unconvinced as to the merits of registration, and convinced that the only effective way of dealing with this problem is the more strategic approach that we take. The deficiencies of the criminal justice system are so great and so pervasive that we must go in the direction which will, as I say again, reduce the number of handguns which are in circulation. That would mean some incremental step such as a reduction in the production of new handguns, if we cannot have the Hart-Bingham.

In our view the situation that we face with the criminal justice process in this country does not commend the registration approach if we really want to do something about handgun violence. To take an example, only half of violent crimes are reported, and arrests for reported violent crimes are one in four. Even given a gun-tracing system, how are we going to be able to improve that? Also many cases fall out between the arrest stage and the trial stage. There are the problems of having the witnesses there, and caseloads, all the problems that we are familiar with. When the Eisenhower Commission completed its work, one of the things that some of us put most of our effort in was supporting LEAA and supporting Federal funding to try to improve law enforcement in this country. And there has been a lot of money spent. And we all know what the crime rates are right now. So we feel even more strongly now about the handgun control issue because of our realization that we are going to have to continue to rely in this country largely on the self-enforcement of the criminal laws.

Mr. CONYERS. I recognize for 5 minutes the gentleman from California, Mr. Danielson.

Mr. DANIELSON. I thank you, Mr. Chairman. I shall not take my 5 minutes.

It is nice to be able to be with you again, Mr. Chairman.

I have no comments of great import here, except two that I think significant.

I agree with my chairman that I have doubts that gun control is going to reduce the incidence of crime. It may change the manner in which crimes are committed. And if it were brought about, hopefully at least to reduce the rate of homicide. I'm inclined to believe that a person who intends to commit a crime, who today might use a gun, would simply use some other means. If he didn't have a gun available, or he might find some way to manufacture a gun or some such thing.

Mr. CAMPBELL. Could I make a comment at that point?

I think there is some evidence that, in the case of robbery, for many robbers the gun is a necessity. Without the gun, the robber could not bring himself to go into that situation of confrontation.

Mr. DANIELSON. Well, I know of two situations that happened to personnel in my office within the last 6 months. In one instance three young men about 15 or 16 years of age on bicycles suddenly pulled up, surrounding this man, building a fence around him with their bicycles, and one of them had a gun. And they did relieve him of his valuables.

On another instance my legislative aid was riding through Rock Creek Park on his own bicycle, and he was suddenly confronted with a gang of about six or eight youths, teenagers, each of whom had a substantial stick or club in his hand.

Now, there was a potential homicide in the gun situation. The potential homicide in the club situation was substantially less. But certainly the perpetrators had neither fear nor respect nor any other thing, they simply were out to commit a robbery.

I'm fearful that we are going to run into that situation if there is a prohibition on handguns. I would think that a gun bill could mean a lessening in the numbers of homicides. But crime is a problem of the mentality and the personality. And I think the person intending to commit a crime is going to do it one way if he can't do it another way. The general deterioration of the quality of our family life and our standard of judgment of value I think are the basis of incidents of crime, and until we find a way to do that—which I don't know, of course—I think we are going to continue to have problems.

Mr. CAMPBELL. I think that those comments are certainly well taken and are fully in accord with what we found at the Eisenhower Commission. I don't want to suggest that we think there is any simple solution to the causes of crime, or that handgun control is in any way an overall solution. I would return to the point that, to the extent that we make the knife the weapon of choice in robbery, we are dealing with a weapon which is, as your remarks indicate, only one-fifth as deadly as the gun. And if we save some lives and improve the climate of fear that currently exists in so many parts of the country, particularly in the cities, we have made a major step forward and put ourselves in a position to address many problems—in education, for example, and housing—which society now is refusing to face because of the problem of violence. This fear that people have for their personal safety is a major factor. I think, in the country's backing away from some of the efforts at improving the lot of all of our citizens that characterized the 1960's.

Mr. DANIELSON. I thank you for your comment. And I yield back whatever time I have.

Mr. CONYERS. Thank you.

The Chair recognizes the gentleman from New Jersey, Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman.

And I want to thank the witnesses for their testimony.

Just following up on your suggestion, there is a great deal of fear, particularly in urban centers now, where crime often runs rampant, particularly in the poor areas. And the poor prey upon the poor. I gather from your testimony that you would be in favor of first of all banning any importation, sale, or transfer of hand guns except to pistol clubs, and police officials, security guards, to be followed up with a period of time, and handguns would be purchased by the Federal Government, and then after that time it would be made illegal. Working on the assumption that people do have bonifide fears—the grocer who feels that at least a gun is some form of protection to him in a community that is crime ridden, what do you do to that person to make it illegal if he doesn't surrender the gun? Are you making him a felon? And is that a solution to the problem?

Mr. CAMPBELL. The problem of extracting the existing guns from private hands is a very difficult problem, and certainly one that ought to be approached with as much sensitivity areas as possible.

The question of the small businessman and the gun is a particularly acute one, because in that case we are talking about someone who cannot afford a security guard.

Mr. HUGHES. Let's talk about someone. I'm concerned not only with the grocer but the homeowner—let's say someone in Philadelphia. You can't have a policeman behind every automobile or tree in Philadelphia, and he feels insecure because he is not protected in that neighborhood, and the fact that the handgun does make him feel some security, whether it is a misplaced feeling of security or not, is beside the point, and he is not going to surrender that handgun. And he is otherwise a law abiding citizen in the community. Do you make him a felon? He is not going to surrender the gun. There are a lot of people in this country that just would not surrender a gun. And for that reason they do feel it does afford them some degree of security.

Mr. CAMPBELL. Here is where public education, of course, comes in. I think as people look at this issue more and more, they can see that the handgun is not protection. To the extent they are unconvinced by those arguments, there are other weapons, long guns, that are available to them to perform this same function. However, at the end we do "criminalize" conduct which is, on your hypothesis, widely engaged in by otherwise law-abiding people. Now, we are very careful and very hesitant about doing that. I think we would have to see how this experiment proceeds in terms of withdrawing guns from private hands. If on your hypothesis 40 million Americans don't give up their guns, then we have got a problem that is very much like the prohibition problem. If on my hypothesis public education, a national commitment to handgun disarmament is successful, we will see a very high rate of give-ups of guns.

Mr. HUGHES. What would you do, just test it in a specific area of the country? You can't pass a law that says, we will try it and see if it is going to work. I would think that the consequences would be far-reaching. If we pass a law to make the possession of a handgun felonous after a certain day, and you have substantial numbers of

citizens who fall into that category, you have created monstrous problems.

Mr. CAMPBELL. You have. And I would say if that law were passed and 40 million Americans absolutely can't abide by it, I think the Congress would want to reconsider it and extend the period in which people give up their guns.

Mr. HUGHES. How about 5 million? And I think you will agree that there is a great deal of emotion involved in the issue. And there are a lot of people that possess handguns that are otherwise law abiding and really do believe that it does protect them. And they feel more secure because that handgun is in the top of the closet. And I have great difficulty bringing myself to the posture of making those people felons.

Mr. DANIELSON. Could you yield?

Mr. HUGHES. Sure.

Mr. DANIELSON. What would you say to the frequently offered suggestion of imposing a mandatory sentence of confinement upon a person who commits a crime with the use of a deadly weapon, a gun or a knife, mandatory?

Mr. CAMPBELL. A person who commits a crime?

Mr. DANIELSON. Yes, with the use of a handgun.

Mr. CAMPBELL. My feeling about that, Congressman, is that we are only going to reach 1 out of 10.

Mr. DANIELSON. Let's talk about the one. A mandatory sentence of confinement, a minimum of 2 years in the pokey, for the guy that uses a gun in committing a crime.

Mr. CAMPBELL. If I may, I would like to put aside legal or constitutional questions about controlling judicial direction in that fashion. I'm simply not prepared today to address them. But assuming that it could be done, I would think that step would fail to deal with handgun violence, because we do not get enough criminals to the point where they are standing before a judge ready to be sentenced.

Mr. DANIELSON. Then why should we have fear of imposing sentence on these few we do get before the judge? Why should we be reluctant to come to grips with that precise question I have asked? Is there something beastly about putting a criminal in jail once you have caught him and do have him at the bar of justice; is that unfair?

Mr. CAMPBELL. No, sir, not at all. And we strongly support the vigorous, effective prosecution of the laws that we currently have against handgun misuse. And if they can be strengthened consistent with the constitution in the manner you suggest, then we would support that as well.

Mr. DANIELSON. I'm going to put your strong support to the acid test, then. What objection would you have to a mandatory sentence of confinement in prison for a person who is convicted of having used a handgun in the commission of a crime?

Mr. CAMPBELL. If you will continue to permit me to put aside any possible constitutional questions, simply from ignorance on my part, I would say none.

Mr. WELLES. Nor does the council have any such objection.

Mr. DANIELSON. I really and truly believe that one of the reasons that we have so much crime is the fact that we do not impose adequate punishment upon those who commit crimes. Now, sociologically

you might say that the poor man is twisted. OK, he is twisted, he is sick. But it is like a fire. We have got a fire now. Maybe we should have had better wiring. But we have a fire now, and we have to put it out. Maybe if this person had grown up under a better environment he wouldn't be criminally inclined. But the trouble is, he is now an adult, and he is criminally inclined. There tends to be a relationship between crime and punishment. And it goes back a long, long way.

Mr. CAMPBELL. Yes. I think the relationship is particularly strong, however, more on the certainty of punishment—the likelihood of punishment rather than the severity of it.

And I don't want our comments to be construed in any way as being in favor of coddling criminals or anything like that. We would like to see people locked up for gun offenses.

Mr. DANIELSON. But on the very point of certainty which you mentioned, that is precisely what I had in mind, that he is certainly going to go to jail.

Mr. CAMPBELL. You may have been absent when I was repeating the findings of the Eisenhower Commission to the effect that out of 20 violent crimes committed, we only get one perpetrator before a judge where that sentence can be imposed. And so the criminal feels that no matter how stiff the sentence is, the odds are strongly in favor of his avoiding any penalty. And he therefore continues as before, undeterred by even the most strict sentences.

Mr. DANIELSON. That is a conclusion. But the point simply is that the criminal that is in prison is deterred if no one else is for at least that 1 year or 2 years. And I think that is a factor we have got to crank into our thinking.

Mr. CAMPBELL. I think so too. And I think that is particularly important in the case of the repeater who is responsible for such a large proportion of our crime.

Mr. DANIELSON. I yield back.

Mr. HUGHES. Do I have a few minutes for a couple of questions?

Just following up on your testimony dealing with registration and tracing for just a moment, I think it ties in with the question of sentence. I couldn't agree more with my colleague from California. I think there are so many people who commit offenses that feel, No. 1 that they can get away with it, and second, if they don't get away with it, they wouldn't go to jail. And I think that if they are sure and certain of the fact that if they use a weapon in the commission of violent crimes or offenses that they are going to serve some time in jail, that it would cut it down somewhat. But dealing just again with registration, don't you agree that the registration and more effective tracing would be somewhat of a deterrent; it is hard to determine how much, but somewhat of a deterrent? Because one of the problems is that there is no effective registration or tracing today, and those that commit offenses know that it would be very difficult to trace weapons, and also it would be assistance to law enforcement in the prosecution of the offense—isn't it true that one of the problems that law enforcement people have today is the ability to trace a weapon to an offender, to an owner? And if that is a problem, shouldn't we be concerned about registration and tracing, if for no other reason than for those reasons?

Mr. CAMPBELL. I think that there would be some marginal additional deterrent effect. I take it, however, that the registration and tracing concept essentially depends upon apprehension of the perpetrator of the crime. In other words, we can't begin to trace the weapon until we have caught the person who has the weapon and has used it in a crime.

Mr. HUGHES. Quite often we can trace the weapon; we can tie it in to the offender. One of the problems we have now is that we can't trace.

Mr. CAMPBELL. We are now talking about a situation where we don't have a suspect for a crime.

Mr. HUGHES. Even if we don't have a suspect, if we can trace a weapon, we can perhaps locate the suspect. Under the present tracing law it is required that a record be kept down to the first purchaser, and after the first purchaser under the 1968 Gun Control Act, there is no requirement that a record be kept of the sale to the second person or transfers beyond that.

Mr. CAMPBELL. I think that the situation you are envisaging there is the homicide situation.

Mr. HUGHES. Yes, primarily.

Mr. CAMPBELL. You have a victim, and you are now trying to solve the crime. I think there may be merit, indeed, in an ability to trace under those circumstances. But what about the robbery situation where we simply have a victim saying, "I was walking down the street and two or three kids came up, and one poked a gun into my face and they stole all my money"?

In that situation we have no ability to trace the weapon. And what we are faced with is the fact that in only about one out of eight of those situations do the police apprehend the suspect. So that kids continue out there committing these crimes secure in the knowledge that the odds are 8 to 1 in their favor, and I don't think registration is going to help that situation at all.

Mr. HUGHES. That is true in that situation. But there are so many homicides that are committed where we can't trace the weapons, which doesn't have the tools.

Mr. CAMPBELL. That is true. But may I just add that I think the current intensity of fear is not principally attributable to homicide. Homicide continues to be overwhelmingly a matter of violence among intimates. What is triggering the concern today is robbery—crime in the streets. And that is where we ought to put in our effort, I think—to try to do something about either reducing the incidence of robbery or making robbery a less deadly, less threatening experience than it is at the present time. That fear stemming from robbery is, to such a great extent, contributing to divisions in our society and hostility among—

Mr. HUGHES. Perhaps that robber might not have been able to purchase that weapon if in fact we had a strong registration law that put criminal onus upon the sale of the weapon to begin with. And I think what we are saying in essence is, you just can't look at one aspect of it. I think that the problem is so complex that you have to look at a number of areas to try to solve our problem with handguns. And that might include the whole spectrum of things we are talking about—an educational program, reexamination of the sentencing

process, and how that can be improved, the whole spectrum will give us all a great deal of concern.

Thank you, Mr. Chairman.

Mr. CONYERS. We turn now to the gentleman from Illinois, Mr. McClory.

Mr. McCLORY. First of all, I would like to know, are you testifying today in support of control legislature, or against gun control legislation?

Mr. CAMPBELL. I hope that the committee is quite clear that the council and I are strongly in favor of effective gun control legislation.

Mr. McCLORY. You made reference to the position paper which you delivered and which I responded to. And in the second paragraph of your position paper you say: "the licensing and registration legislation presently up for consideration has been seen by some as a potential first step in the direction of resolving this serious problem of handgun violence in America. But rather than a step forward, the National Council to Control Handguns regards it as a step in the wrong direction." And then in your final paragraph you state that with respect to registration and licensing, "but of all the possible responses to the ever-increasing threat of handguns to the quality of our life, we see licensing and registration as perhaps the most threatening; frightening, because it accepts, legitimatizes, and actually sets up a system to perpetuate the arming of American society."

Now, in view of those statements, are you not appearing here testifying against my gun control legislation and that of all those who are proposing restriction or registration and licensing of handguns?

Mr. CAMPBELL. We are saying that we fear that such legislation will not be effective in adequately reducing handgun violence. We fear that the opportunity that we now have may be lost if that is the direction which legislation takes at the present time. If our own position cannot be legislated at this time, we would much prefer to see incremental steps toward the ultimate goal of eliminating handguns from private possession in this country. We would much rather see a very strong "Saturday Night Special" bill, if you will—something that is truly directed toward the production and possession of concealable handguns. This is the direction which we would prefer to see legislation take at this time, based on our strong conviction, which I have tried to explain this morning, that it is only through reducing the general availability of handguns that we are going to be able to make a dent in handgun violence.

Mr. McCLORY. With respect to that subject, now, you mentioned earlier that a very large percentage of persons who possessed handguns, 99 percent or so, are law-abiding citizens, and the argument is made that since there is only a small number that use handguns for a crime, that the argument is made against banning handguns. But you suggest that crime permeates our society to the extent that this is not an accurate ratio to govern yourself in our deliberations here. Do you have any information that there is a higher percentage than one-half of 1 percent, or at the most 1 percent of handgun owners who are involved in the commission of crimes?

Mr. CAMPBELL. No. I would think that, in a particular year, as I understand the figures, it is somewhere in excess of a quarter of a million violent handgun crimes, out of a total handgun population

of, let's say, 40 million, and we don't know how many of those are at the hands of multiple owners. So I would suppose that as far as any one year is concerned, it probably is true that only one-half of 1 percent of the gun owners are abusing their guns.

Mr. McCLORY. But nevertheless you suggest that even though there is only one-half of 1 percent of the handgun owners who are criminally inclined, nevertheless you want to ban the guns from the 99½ percent of law-abiding citizens who feel that they are in the exercise of not only their constitutional but legal rights, many of whom have their handguns registered and have licenses to carry guns, or to use them for multiple purposes. Why do you want to impose your theories on the 99½ percent of law-abiding citizens because of the criminal misconduct of the one-half of 1 percent?

Mr. CAMPBELL. My first observation on that would be that I think that we maybe should not confine our attention to a single year. We are perhaps being a little optimistic about the degree of law-abiding behavior in this country when we talk about this one-half of 1 percent. In 10 years it may be that 5 percent have abused a gun. It may be that one only commits one homicide in a lifetime.

Mr. McCLORY. That is why I asked, if you have some statistics, some information that this one-half of 1 percent is not an accurate figure, give it to us. I don't want your speculation that it might be 5 percent. I haven't heard the 5-percent figure before.

Mr. CAMPBELL. That is merely an extrapolation from the fact that it appears that in a single year it was one-half of 1 percent of the handgun owners who abused their guns.

Mr. McCLORY. Your earlier statement was to that effect: you debunked the one-half of 1 percent of gun owners who commit crimes by saying that crime is widespread in America. We all know that crime is widespread in America, but that doesn't indict the 99½ percent as far as I know.

Mr. CAMPBELL. Let me, if I may, read from the final report of the Eisenhower Committee, page 23. One of the conclusions set forth is: "Americans generally are no strangers to violent crime. Although it is impossible to determine accurately how many Americans commit violent crimes each year, the data that are available suggest that the number is substantial, ranging from perhaps 600,000 to 1 million. Undoubtedly a far greater number commit a serious violent crime at some time in their lives."

And then the support for that is set forth in the footnotes.

Mr. McCLORY. This is the Subcommittee on Crime. We are considering the incidence of crime. And that is why we want to direct your attention against the criminal elements and not against the law-abiding citizens who we are trying to protect.

Let me ask you this. As indicated by the gentleman from New Jersey, the registration would facilitate the tracing operation of crimes committed with guns. And contrary to your suggestion that you need a suspect first, sometimes you need the identification of the gun first, the identification of the gun leads to the suspect. And are you aware of the fact that in the sample that was made by the Division of Alcohol, Tobacco, and Firearms that 72 percent of the gun tracings assisted in apprehending the criminal involved in the commission of the crime where the gun was located and traced? Are you

aware of the fact that in 47 percent of the cases in which they tested the ability to trace the gun assisted in convicting the person in the commission of a crime?

Mr. CAMPBELL. I am sure that those figures indicate that gun tracing can be of some assistance in some kinds of crime. I continue to be puzzled as to how it can be of much help in the case of street robbery.

Mr. McCLORY. Do you regard that as marginal? You said that you thought that the tracing operation might have some marginal effect. Do you regard those figures as of marginal value in the fight against crime?

Mr. CAMPBELL. Yes, I do, because of the condition that our overall criminal justice system is presently in. I think that those figures, while certainly encouraging, do not make much of a dent even in the violent crime problem.

Mr. CONYERS. I recognize now the gentleman from South Carolina, Mr. Mann.

Mr. MANN. Thank you, Mr. Chairman. No questions.

Mr. CONYERS. You have stirred some interesting discussion here; unfortunately we are not able to continue any longer. We do appreciate your testimony. And we know you will be watching our result legislatively. Thank you very, very much for joining us.

Mr. CAMPBELL. Thank you, Mr. Chairman. We deeply appreciate this opportunity.

Mr. McCLORY. Mr. Chairman, I made reference to this position paper. I would like leave to put it in as part of the record. And I drafted my response to it, and I would like to put that in the record.

Mr. CONYERS. Without objection, both documents will be accepted into the record.

[The documents referred to follow:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 15, 1975.

Mr. MARK BORINSKY,
Chairman,
The National Council to Control Handguns,
Washington, D.C.

DEAR Mr. BORINSKY: I have recently had the opportunity to review a position paper published by the National Council to Control Handguns regarding licensing and registration. The position paper contains such faulty assumptions and inaccurate statements that I feel compelled to respond in the hope that when presented with accurate information, your organization might change its position.

I understand the goal of your organization to be the complete elimination of the handgun from American society except when used by police, military, licensed security guards, and pistol clubs. In support of that goal, the position paper argues that registration and licensing: (1) would require, at great expense to the taxpayers, a large "unwieldy" bureaucracy with a vested interest against further restrictive controls; (2) would do nothing to prevent "crimes of passion" and other forms of handgun violence; and (3) would provide only "some assistance" to law enforcement agencies in the investigation of handgun crimes. You conclude quite passionately that "of all the possible responses to the ever increasing threat of handguns (you see) licensing and registration as perhaps the most frightening

It is apparent that you or your organization is abandoning reason—in favor of an emotional appeal in support of your thesis "ban the gun." Also, it appears that you have not been following closely the hearings of the Subcom-

mittee on Crime in which each of your contentions has been demonstrated to be erroneous.

First of all, preliminary studies being conducted by the Subcommittee staff, with the assistance of experts from the General Accounting Office, indicate that registration and licensing systems, whether administered by the Federal or State agencies, would require neither the expenditure of enormous sums of money nor the employment of an inordinate number of personnel. As I am sure you are aware, this is the era of automated data processing and, with the advanced technology presently available, efficient registration and licensing systems could easily be established at acceptable cost levels.

Furthermore, it is not necessary to place the burden of such systems on the taxpayer. Any system of regulation of the ownership of handguns should properly be supported by fees paid by the users of the system—the handgun owners. As in the case of automobile registration and licensing systems, such fees could be quite reasonable, and would not impose an undue burden on law-abiding citizens who purchase, possess and use handguns.

In addition, the fear expressed in the position paper about the self-perpetuating bureaucratic interest of a registration and licensing agency seems essentially to be an argument against the principle of registration and licensing rather than the problems of implementation. The impression I receive from the position paper is not so much that you fear the influence of a registration and licensing bureaucracy, but rather that you abhor the underlying principle of such a system—which is to permit the regulated private ownership of handguns by law-abiding citizens. I will deal with that shortly.

Second, as the position paper acknowledges, financial and administrative costs are not unacceptable burdens if the benefits of a system are attainable and desirable. I agree with the assertion that the primary concern is whether a registration and licensing system would change the statistics of handgun violence. In fact, testimony received by the Subcommittee indicates that such a system would lessen the incidence of handgun violence by serving as a valuable *preventive* of handgun misuse.

Any system of registration and licensing first would be designed to prevent persons with criminal, mental or other disabilities from obtaining handguns. This would be done simply by checking the personal history of a prospective handgun purchaser, and preventing the purchase if he falls within a prohibited category. Information received from the Bureau of Alcohol, Tobacco & Firearms suggests that the impact of this system on the criminal misuse of handguns can be expected to be effective quickly. Studies have shown that about half of the handguns used in crime are five years old or less. Thus, within a few years, criminal acquisition of *new* handguns, which unfortunately has been shown to be a current phenomenon, would be significantly reduced. A properly drawn system of registration and licensing would also have an impact on the criminal acquisition of *used* guns, the remaining half of handguns used in crime. If each owner of a handgun was accountable for his weapon, it can be expected that criminal acquisition and misuse of that weapon would be reduced, since he would take greater care to safeguard it from loss or theft.

Finally, contrary to the implication of the position paper, a system of registration and licensing would also have an impact on the use of handguns in "crimes of passion" between relatives and acquaintances. Information received during our hearings has shown that in a substantial percentage of such "crimes of passion" both the victim and the offender had criminal histories. Any system designed to prevent the acquisition of handguns by such persons can be expected to decrease the number of such homicides.

Third, not only is the position paper incorrect in its conclusions concerning the preventive effects of registration and licensing, but it also conveniently understates the value of a system in the investigation of crime. Current registration and licensing systems now in effect suggest that an expanded system would be of enormous value in this area.

You seem not to be aware that the Bureau of Alcohol, Tobacco and Firearms currently conducts a large-scale firearms tracing operation based on the records required to be kept by licensed manufacturers and dealers under the Gun Control Act of 1968. This, indeed, constitutes a limited form of registration. Since its inception, this tracing capability has been expanded so that the Bureau is currently tracing about 3,000 weapons a month. The value of this tracing capability is proven merely by the number of trace requests—over 36,000 annually—submitted by Federal, State and local agencies. The

current number of traces alone are persuasive evidence of the value of a tracing capacity. But, as the Director of the Bureau has testified, the tracing capability has not been widely advertised among the 40,000 law enforcement agencies in the United States, and if it were so advertised, the trace requests would at least triple. Furthermore, a survey recently conducted by the Bureau indicates that 73 percent of traces assisted in the investigation of a crime and 42 percent assisted in the prosecution of cases where a firearm was involved. While you seem to feel that the tracing capability of a registration system is of limited value, the law enforcement community takes quite a different view.

Some of these criticisms of registration and licensing are somewhat puzzling since they can be directed with equal force against the solution which your organization proposes—the elimination of the private possession of handguns. Certainly the ban on possession will require a large bureaucracy to receive and handle the handguns which are surrendered to the government. The government will be required to compensate the owners of those weapons as they are turned in. Conservative estimates of such a cost are enormous: if we assume that there are now forty million handguns in private possession (a conservative estimate as Director Davis has testified), and if we assume that the average value of a handgun is fifty dollars (again a conservative "guesstimate"), then it would cost the federal government two billion dollars to compensate handgun owners for their weapons. More realistic estimates are between four and five billion dollars, and this cost is not recoverable.

A ban on possession has even more disturbing civil liberties implications. For, if possession is banned, will we allow the police to raid the homes of previously law abiding citizens who are believed to possess handguns in violation of the possession ban? If this expanded power of search and seizure is expected to be exercised selectively within the discretion of police officials, will not communities where the greatest incidence of both violent firearms crimes and "crimes of passion" occur? Are you willing to tolerate either of these possibilities? And if you feel that the dangers of such expanded power justify a limitation on police will not your ban on possession become unenforceable and, therefore, meaningless? The inevitability of these problems suggest to me that there are serious practical obstacles, in addition to philosophical and political objections to any such ban on handgun possession.

However, by far the most disturbing aspect of your position paper is your description of registration and licensing as "frightening" because it "accepts, legitimizes and . . . perpetuates" the possession of handguns by private citizens—as you describe it "the arming of American society." If, as the paper states, "the number of handguns" is really the problem, then your fear should be tempered by the number of handguns that are not misused, and, indeed, the number of handgun owners who use handguns in lawful ways to the detriment of no one else. For, of the estimated 40 million handguns, far less than one half of one percent are involved in crimes of passion, crimes of intent, and all other types of misuse taken together. Indeed, almost all handgun owners are aware of the dangers of handguns and handle them with care, in complete accordance with the law and in ways not harmful to others. The point is simply that handguns have always been and may always be accepted and legitimized and perpetuated in America.

Your misconception of the handgun is further aggravated by a misunderstanding of the role of the federal legislature. We are not sent to Washington to engage in the complete redesign of American morals or lifestyle. We are not elected as social engineers to change the beliefs and habits of the overwhelming majority of American citizens who abide by the laws and cause harm to no one. Although your position paper deprecates most such citizens as being "so-called normal people," their interests and desires must be considered and accommodated if possible.

And, in the case of the 99.5 or more percent of handgun owners who follow the law and who possess and use handguns safely, their interests can and should be accommodated. The problem we face today is not their use of handguns, but the misuse by robbers, muggers, and rapists on the streets of America. That is where our attention should be directed. A carefully drafted measure creating the framework for a registration and licensing system would do just that.

It is my hope that organizations such as yours will begin to realize not only that your position, conceived as it is in good faith, is wrong, but also that it is hopeless. This Congress will never pass a complete handgun ban. I doubt that any Congress would ever pass such a ban. Moreover, the position

of your group is so extreme that the President and many legislators have chosen to ignore it. As for myself, I have listened long enough, and I feel that some rebuttal must be made, for it is groups such as yours which are interfering with the chances for a more responsible, effective, and "passable" bill in this Congress.

Sincerely yours,

ROBERT MCCLORY,
Member of Congress.

NCCH POSITION REGARDING LICENSING AND REGISTRATION

(Note: "Licensing and Registration" is intended here to refer to bills which would allow most citizens to receive a license to possess a handgun; excluded would be convicted criminals, drug addicts, mental defectives, etc. Also, handguns and handgun transfers would be required to be registered.)

The licensing and registration legislation presently up for consideration has been seen by some as a potential first step in the direction of resolving the serious problem of handgun violence in America. But rather than a step forward, the NCCH regards it as a step in the wrong direction.

Such a bill would establish a large bureaucracy at considerable expense to the taxpayer. Mountains of paperwork and endless processing of forms would be required. It's doubtful that even the most efficient agency could keep up-to-date accurate records on every handgun, handgun owner and handgun transaction. Moreover, as has been demonstrated many times in the past, bureaucracies acquire a life of their own. We see the only truly effective handgun control legislation as that which would restrict handgun possession to a small number of appropriate groups; i.e., police, military, licensed security guards and licensed pistol clubs. Such legislation would require a much smaller bureaucracy to administer than licensing and registration. *Therefore, a licensing and registration bureaucracy would have a vested interest—namely, their jobs—against the simpler, more restrictive legislation.* In other words, they would be a powerful force against stronger legislation.

However, cost and unwieldy administration are not the principle reasons for our opposition to this legislation. We are not necessarily against spending money and establishing bureaucracies. Our primary concern is whether a licensing and registration system would change the statistics of handgun violence. If a criminal used a handgun in a holdup, would it help to know it was stolen from John Smith, age 35; height 5'11"; weight 170 lbs.? If a husband kills his wife, would it change anything that there is a slip of paper in a drawer saying the pistol was registered? While licensing and registration would provide some assistance to law enforcement agencies in tracking down handguns used in crime, it does nothing to prevent such violence.

The problem really is the *number* of handguns in our society—40 million and increasing at the rate of 2.5 million every year. A bureaucracy processing forms would provide only the illusion that the potential for the violence of handguns would somehow be reduced. First of all, it's not true that so-called normal people are never violent. Many of the people who commit murder could easily get a handgun under the proposed licensing and registration legislation. In addition, the sheer numbers of pistols and revolvers in this country—registered and unregistered—guarantees a supply for criminals by theft and illegal purchases.

In a society where the criminals are armed, it's understandable that decent people would feel safer with a handgun under their pillow. But this is also an illusion. Because of the element of surprise in most criminal attacks, handguns are not defensive weapons. In spite of increases in handgun ownership for self defense, violent crime continues to rise. It's an ever escalating war, and it's hard to see how licensing and registration would do anything to interrupt the spiral of violence.

CONCLUSION

Licensing and registration—would it be expensive? Yes. Unwieldy? Yes. Only marginally efficient? Yes. We would tolerate this if we felt it would, in any way, deal with the problem. *But of all the possible responses to the ever increasing threat of handguns to the quality of our life, we see licensing and registration as perhaps the most frightening; frightening because it accepts, legitimizes and actually sets up a system to perpetuate the arming of American society.*

Mr. CONYERS. Our next witness is Mr. William B. Ruger, who is a designer of automatic weapons, and has been connected with the U.S. Army, and with Auto Ordinance in Bridgeport, Conn. He is now the president of the Sturm, Ruger & Co., and is one of the firearms manufacturers who has responded with some care to the questions that this subcommittee posed to 34 handgun producers in April. Mr. Ruger employs a total of 800 persons in several plants across the country. We are grateful that he could appear before us.

Mr. Ruger, we thought that hearing some of the prior witnesses would give you a frame in which your remarks would be even more appreciated. We welcome you. You may proceed in our own way.

TESTIMONY OF WILLIAM B. RUGER, PRESIDENT, STURM, RUGER & CO., ACCOMPANIED BY WALTER J. HOWE, VICE PRESIDENT FOR MANUFACTURING

Mr. RUGER. Thank you, Mr. Chairman.

I must say that I appreciate this opportunity to be here. And also have with me on my left Walter Howe, who has a rather unusual role in our organization. He is on the one hand production manager of our plant in Southport, Conn., and on the other hand an outstanding and long-term student of the correlation between firearms and crime, and has had a continuous interest in this subject for many years, which I believe represents a very useful input not only on this occasion, but it has been important for he and I generally to try to appraise my position in both association and commercial senses as a member of society.

Mr. CONYERS. We welcome Mr. Walter Howe, who will be joining you at the witness table.

We notice that he is also an author, and has published works on gunsmithing. He is an editor, and editorial director, and assistant director of research, and has been generally deeply involved in the consideration of the subject matter that brings us here.

We welcome you, Mr. Howe.

Mr. RUGER. I apologize for not having a prepared statement for the committee. However, as we explained to your staff, I have been away from my office until yesterday. And I believe that the presentation I would like to make is responsive to your invitation.

It is my plan basically to refer to the products that we ourselves manufacture rather than make some broad comment on the entire subject of handguns in general.

And I think perhaps considering that we are indeed manufacturers with a substantial stake in this issue. That is perhaps a biased view, but I hope not. This is the most proper presentation I could perhaps suggest.

Perhaps you would be interested to know that the company has been in business since 1949. And I founded this with a partner now deceased, Alexander Sturm. Today we have plants in Southport, Conn., and Newport, N.H. And we employ approximately 800 people making quality rifles and handguns for sporting, police, and military purposes.

The manufacture of firearms is about 90 percent of our business, which today is in excess of about \$30 million in annual sales.

To launch into my thought, I would like by means of these guns in front of me, all of which are our design and manufacture, to illustrate a thing which I think is relevant to this general discussion, which is to say that there is some evidence here of the legitimate use of firearms, being the major use of firearms.

The guns before me are all designed to be sold to citizens of the United States. This has been basically the thrust of our company, the way in which it has developed over the past 25 years. None of these were built for any sort of criminal business. They were built for open sale to people who were going to use them in some law-abiding fashion.

This first gun on my right over there was an informal target pistol, and actually the cornerstone of the company when it was started in 1949. It was used by large numbers of people. It was very popular, and sold very quickly. And we are still in production with it.

In the years too its merits have begun to suggest a target pistol of a more formalized nature for that kind of shooting that is done with more care, under more supervision, where targets are registered, and where people are competing, and which reflect upon seriously and govern competitive sports.

Then as a few more years went by we realized that the old fashioned single action revolvers which characterized the opening of the west and were no longer being manufactured in that period after World War II, we realized that these guns were very much wanted by Americans who lived in the West, primarily collectors, people who in general like the practice but nevertheless romantic firearm for camping, fishing, hunting trips, and so forth. And this gave birth to the first of our single action revolvers which are made in .22 caliber.

The gun facing you is the original size and shape, and it is made with various barrels coming down to the longest of them, the stainless steel edition of these revolvers, with a 9½-inch barrel. All these guns, generally speaking, are wanted by our customers with long barrels.

Then later we came to these higher powered revolvers, this group immediately in front of me, all of which you can see have either long or still longer barrels.

Our final or latest products, say dating back now only about 5 years, are these double action modern police revolvers. The Security 6 here, the Speed 6 made in stainless steel. The Speed 6 with that short barrel is conceived essentially as a pistol for sale to police departments. We have it in our line primarily in our effort to obtain police business.

The matter of obtaining police business has been a very serious objective of ours. We have in fact furnished these guns to many foreign governments, and many foreign police departments of great prestige. And they are used by the U.S. Border Patrol and many Federal agencies. And we have had the General Services Administration contract from time to time for the furnishing of double action revolvers for guard duty, and so on.

This outlines basically the type of firearms we make.

I am interested to see just recently in these conversations the point come out that such a small percentage of firearms owned in this country become involved annually in misuse of any sort. And it is, I think, very relevant that the equating of handguns with crime is a subject which concerns millions of Americans properly. These millions of Americans have a traditional, if not constitutional right to firearms. And it has been a facet of American lives for 200 years, a unique demonstration of our democratic presence, of our concept of a citizen as a responsible individual. It seems to me that the proposals that I hear in terms of banning guns, treating gun owners as incompetent, or wayward children, is downgrading American citizenship disastrously. And this is what I am personally fighting against. There is room for intelligent gun controls. But there is a problem there, a serious one.

Before I outline this problem as I perceive it, I would like to make a point here. And that is that these firearms in front of me all conform to the existing criteria applied by the Treasury Department for foreign imports. We are not here concerned in the least way with the so-called Saturday night special, if it is generally assumed as I think it is, that a Saturday night special would be a firearm that does not conform to these existing criteria, we are in no difficulty.

And an interesting point that I might bring forth here also, just referring to the fact that we as a commercial company are interested primarily in sales, and find firearms of this sort the kind that make—and this would be perhaps the most cynical interpretation of our motives—but let me read the congressional finding and declarations to the Federal Gun Control Act of 1968. I hope you will forgive me reading it: The Congress hereby declares that the purpose of this title, which amended this chapter, is to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence and it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes or provide for the imposition by Federal regulation of any procedures or requirements other than those reasonably necessary to implement and effectuate the provision of this title.

I am delighted to be able to sit here as an American citizen and know that these firearms we manufacture conform perfectly with the spirit of this Federal Gun Control Act, that these are guns which were made for lawful and legitimate usages.

Now, that is the conclusion of my presentation on the firearms we manufacture. I am ready to answer any questions, and hope that I may. However, if you would permit me just a few minutes, I would like to comment on what I consider to be the overriding aspect of this entire situation. It is the matter of polarity. It is to me further visualized or witnessed this morning in the discussion I have heard, and it is clear to me that it is a fundamental aspect.

The antigun groups, whatever that may include, often accuse sportsmen and gun owners of being alarmists, and of being unreasonable and vociferously opposed to all gun control measures.

These antigun people say that sportsmen always assume the worst when any sort of handgun control is proposed.

The truth is that law-abiding gun owners do have every reason to be alert to, and concerned with, every bill which deals with handgun control, be it licensing of owners or registration of their firearms.

As an example, last February in the D.C. City Council, a councilman, John A. Wilson, proposed a bill which would have required the police to confiscate the 35,000 handguns and 16,000 shotguns already registered in D.C. When it was pointed out to the councilman that such a bill would break faith with the obviously law-abiding citizens who registered their guns under existing D.C. law, he said, "That doesn't bother me, I didn't promise them anything * * *" The councilman was also unimpressed by the fact that the registered firearms are not the ones used in D.C. crime.

When sportsmen and honest citizens oppose gun registration on the grounds that "registration leads to confiscation," they are well aware of another of this D.C. councilman's remarks. When he was pressing for enactment of his bill, he said, "People think I want to take everybody's gun away—and they are perfectly right."

I know that councilman Wilson has since withdrawn that proposal under pressure from such sources as the Washington Post and the Americans for Democratic Action, and so on.

Law-abiding gun owners the world over have learned the sorry lesson that registration indeed does mean confiscation—sooner or later.

Let me read to you something which recently came to my attention:

Civilian handgun owners should be required to surrender their weapons, legal or illegal, to the State within 180 days of the effective date of enabling legislation. To * * * encourage full compliance, those surrendering weapons should receive the fair market value of their guns, as determined from such industry sources * * * Provision ought to be made for independent appraisal of rare or unusually modified weapons. Those turning in guns should be allowed to remain anonymous. While this might create incentives to steal weapons and let the State, in effect, fence them, it will also encourage the surrender of illegal weapons and will thus increase the yield of a gun prescription program. Moreover, it should not work to the disadvantage of the insured legitimate gun owner, and would give those fearful of having their guns stolen an incentive to surrender them early in the 180-day grace period.

To maximize the program's yield, the State should notify all owners of registered handguns of the program. By keeping track of the serial numbers of collected weapons, the State will be able to identify owners of registered weapons who have not obeyed the law. Owners of guns not surrendered within the grace period should bear the burden of explaining their loss or disappearance.

The State should establish a program of bounties for tips leading to the discovery and confiscation of handguns not surrendered within the 180-day grace period. A bounty equal to the value of guns recovered would offer great incentives to would-be informants. A bounty higher than fair market value would offer still greater incentives while driving up the price of illicit guns to at least the level of the lowest collectable bounty, but has the disadvantage of encouraging gun owners to turn themselves in—anonously or through a friend—in order to collect more than they could by legally surrendering their handguns. In addition, a bounty above fair market value would encourage the importation of cheap handguns from other States for sale in this State at a profit. Accordingly, we recommend that bounties not exceed

the fair market value of guns recovered. Provision should be made for preserving the anonymity of informants; but as this would increase the difficulty of securing search warrants, tipsters desiring anonymity should be told that it would lessen the chance of weapons being recovered, and thus of bounties being paid.

Although one might reasonably conclude that the above instructions are from a World War II gestapo handbook for its agents operating in occupied enemy territory, they are not.

What I just read to you is from a section headed, "Proscribing Private Ownership of Handguns." Its subheading is, "The Program and its Implementation." And it is from a document entitled, "Handgun Control in Massachusetts, a Report to the Governor." It was prepared by staff members of the public policy program of the John F. Kennedy School of Government at Harvard University in February 1975.

I think that the 99 percent of the handgun owners in this country who possess or use their firearms in a safe and lawful manner have every reason to be alert to all proposals. The gunowners cannot be blamed for opposing those bills which would disarm them while offering absolutely no assurance that their being disarmed will reduce the kinds of vicious crime which all citizens are really concerned with.

I think the burden to reduce the polarity of this issue is on those who wish to enact restrictions.

It is they who must show a sympathy with the long-standing tradition of arms ownership in America.

And it is they who must come forward with proposals which at least offer the basis for an intelligent dialog.

Thank you, Mr. Chairman.

Mr. CONYERS. Thank you very much.

Would you care to add any comment or observations, Mr. Howe?

Mr. HOWE. Not at this point, Mr. Chairman, except one, if I may.

In the written version here, Mr. Ruger spoke of all guns all meeting the criteria, with the two exceptions as noted, the RST4, the small automatic pistol, which we will go into if essential, and which has the 2-inch recorder barrel.

Mr. CONYERS. With the concurrence of the members of the subcommittee, I would like to defer questioning Mr. Ruger and Mr. Howe momentarily, so that our final witness, Mr. Phil Lichtman, can join them at the witness table to make his statement. Mr. Lichtman is just entering the firearms business.

Could you come forward at this point? I would like to hear from you briefly.

Perhaps, sir, you would sit at the other end of the table.

We have your prepared statement, Mr. Lichtman, and I would just like to have you briefly make any additional comments. The subcommittee would like to question all of you together, if that is permissible. We welcome you before us.

TESTIMONY OF PHIL LICHTMAN, PRESIDENT, SEMMERLING CORP.

Mr. LICHTMAN. Thank you very much, Mr. Chairman.

Even had I been asked to read verbatim from my prepared state-

ment, I would depart from it in consideration of the testimony I have heard this morning.

First, I would like to say that it is more of a privilege than it normally would be considered to be here, because—unlike Bill Ruger, who just testified, who is a giant in this field, who is considered a design genius, and whose talents have been known to sportsmen in the field for many years—I am an unknown in the gunmaking field. I do not consider myself principally as a gunmaker. I do not rely on gunmaking to earn a living. I manage an optical instruments company. My gunmaking efforts are very much in the nature of a recently acquired and a vocational thing. The total volume of weapons that I would produce in any given year probably would not exceed 100 or 200 at maximum. Therefore I am by no means a force in the firearms field; it is not my primary field of endeavor; and so I can view the entire legislative situation with a certain degree of detachment that some of the larger manufacturers, whose living depends on it, might not be able to muster.

The essence of what my written testimony says is as follows: My company manufactures only one product. It is a .45 caliber pistol of exceedingly tiny dimensions, far smaller than would be permitted under legislation based on size. It is an extraordinarily high-quality weapon. It is made of steels that are virtually unknown to the ordnance industry. It is an extraordinarily expensive weapon. Its selling price is \$550, and there are no dealer discounts. It is a weapon of limited availability—the waiting period, due to the limited production, is perhaps 6 months. In virtually every respect my product is at the opposite end of the handgun spectrum from what people consider the so-called Saturday night special.

The Saturday night special, as far as I have been able to ascertain, is considered a small, cheap, readily available, mass-produced weapon. Because of its questionable channels of distribution in commerce, because of its inferior metallurgy, perhaps its inferior design, the Saturday night special can be made extraordinarily cheaply, which leaves enough profit for the various levels of illicit distribution that they become available on the street corners. There are several levels of illicit transfer, each of which can make a profit. In other words, it is profitable for unqualified people to deal in some of these weapons because their initial costs are so cheap, and they are made in such quantities.

I cannot conceive of a more different conceptual idea of a weapon compared with my .45 caliber gun than the Saturday night special. And yet they have one element in common that might be the cause of the cessation of operations if certain legislation is enacted. And that is smallness.

Now, I think one of the things that I have tried to point out in my written testimony is that here is a tremendous difference between small and cheap and readily available, and small per se. In fact, if I may handle one of the large weapons on the table before me, perhaps I could do an unrehearsed demonstration to indicate that even the largest handgun is readily concealable.

Mr. CONYERS. That is all right. Thank you very much. We do not have the time.

Mr. LIGHTMAN. My feeling is that virtually any handgun is concealable. Even the largest handgun here can be concealed. When one speaks of arbitrary criteria of size, for example, a 6-inch maximum length under the Gun Control Act of 1968, and a maximum height of 4 inches, my weapon would be excluded. Weapons of much less quality, more ready availability, and much lower price, inferior weapons that are fractionally larger, would be readily available to the public.

Now, I cannot even conceive of a criminal spending \$550 and waiting a long time for a custom made, limited production weapon that happens to be small in size, when he can go out and buy any number of guns for a very small fraction of the price, that are only fractionally larger and therefore fulfill the factoring criteria in the Gun Control Act of 1968.

What I am really arguing for is a rational approach to which guns should be included in commerce and which guns should not. And part of this approach is that smallness per se should not be a governing factor in withholding a handgun from the market. But smallness in combination with the quantities produced, the price, the availability, and how distribution in commerce is handled by the manufacturers, should be the factors that make the decision.

Mr. CONYERS. I suggest to you respectfully that we now are running out of time, and there may be several questions that some of the members would like to address to both you and the previous witnesses. Would this be as good a time as any for us to begin that questioning?

Mr. LIGHTMAN. As far as I am concerned, if you wish me to continue speaking, I may be interrupted at any time, without waiting for any formal question. There are a few more things I would like to say which should not take very long.

I would just like to express my views, which are given at some length here, about gun control in general.

I perhaps depart radically from what might seem to be a united front on the part of the manufacturers in saying that basically I am for a very stringent gun control program. I think it should be fairly difficult for any individual to own a handgun. I think that in order to own a handgun an individual should undergo some fairly rigid psychological tests, he should have several letters of reference from people who are in a position to know what his past history has been, and he should pass tests on his proficiency in the use of a handgun, and he should pass tests in his knowledge of gun safety.

Now, if you look at this point by point, those deaths that have occurred in the home due to unfamiliarity with a weapon could in large measure be eliminated by making sure that nobody gets a license to own any handgun without the police in his town knowing that he is capable of safely handling and storing a firearm. Immature or psychotic individuals who would not be excluded from ownership under the present regulations which exclude only previously convicted individuals, morons, or drug users, or whatever—would also be weeded out by what admittedly might be some expensive psychological testing. But it would work.

Crimes of passion committed with handguns could be reduced in number by mandating, I think, a long waiting period to get weapons. In other words, make it difficult, but not impossible for any indi-

vidual who wants to own a handgun to do so if he can meet certain established criteria as an individual; but once he has his license for a handgun, not to restrict what type of gun he has. His ability to handle the gun and his basic credentials having been established, I do not think it is necessary to restrict the type or design or caliber or size of the weapon that a person owns.

I think it is also important to note that even as the automobile regulatory agencies recognize, there are certain differences in the way one might administer a small business and a large business. The transportation agencies exempt from some of the more stringent automotive criteria manufacturers who produce 500 or fewer cars a year, for example. And I think the same thing might be done for the firearms industry, and for several reasons. One reason is innovation. You never know at a given instant in time when, at a future date, you might need a certain technology. Small companies and individual inventors, I think, per research dollar tend to contribute more in the way of innovative technology than some of the larger companies by virtue of the structure of business, in which the small individual manufacturer does not have to carry a large burden of overhead, and so forth. It seems to me prudent, perhaps, to exempt a manufacturer whose output of handguns is an infinitesimal fraction of the total that is being produced and whose designs have been called, as mine have been, extremely innovative and unique, which might contribute toward the technology, which may possibly be of questionable social value, but whose value might never be known until a future time when the additional technology is needed.

So my last point is, I would like to make a case for regulation of the small, very small, very limited companies as opposed to the more massive regulation of the larger firms, mainly for reasons of innovation.

I think that concludes my comment.

[The prepared statement of Mr. Lichtman follows:]

STATEMENT OF PHILIP R. LICHTMAN, PRESIDENT, THE SEMMERLING CORP.

My name is Philip Lichtman, and I represent a newly formed company—Semmerling Corporation—of which I am president. Semmerling's sole product is a compact .45 caliber handgun of unusual design and outstanding quality.

This Subcommittee is considering legislation to ban or restrict the manufacture of "Saturday Night Specials," commonly assumed to be small, cheap, mass-produced handguns of inferior quality. Their wide distribution through questionable channels appears to make "Saturday Night Specials" significant factors in deaths by shooting. The poor quality and high volume—hence, low price—of such guns mean that they are readily available to criminals and to those susceptible to committing "crimes of passion." I do not believe that one can take serious issue with these assumptions.

Semmerling's product is at the opposite end of the handgun spectrum from the "Saturday Night Special." The Semmerling pistol, which I personally designed, and which is known also as the Lichtman Model 4, is 5.3 inches long and 3.7 inches high—far smaller than the minimum size of 6 by 4 inches proposed by some. Those of you who are familiar with handguns realize at once that a .45 caliber pistol of this diminutive size must incorporate the best design and metallurgy available. The Semmerling pistol's quality is reflected in its price, which is \$550.00.

What social value is there in adding yet another gun to the already staggering American arsenal? In the case of the Semmerling pistol the answer resides in the unique characteristics of the weapon. Its primary market is the

policeman and undercover agent. These officers are being disarmed with increasing frequency, and many of them routinely carry "backup" weapons concealed in the clothing. Backup weapons run the gamut from .25 caliber "vest pocket" semiautomatics to heavy frame .45's. The larger weapons are not readily concealable and are very uncomfortable to carry. The smaller ones are capable of killing, but not of stopping, an antagonist. This is a very important distinction. The difference between killing and stopping power is the crux of the Semmerling pistol's value.

It is obvious that a bullet from any gun will kill if it strikes a vital area, and that a shot from most guns will—if untreated—eventually kill even if a vital area is not hit. What is *not* obvious is that an armed criminal who has been fatally wounded by an officer's gunshot will almost always live long enough to empty his gun into the officer. This is not an academic argument, but rather one that I have heard from wounded officers ever since the Semmerling pistol's existence became known. The gun was described in the August, 1975 issue of "Guns" magazine in a feature article by Jan Stevenson, a handgun expert and author. In this article the Semmerling pistol's price of \$550.00 was given, but my home address was not. Nevertheless, a number of law officers were able to obtain my well concealed number and called me at home, at their own expense, to plead for a Semmerling pistol to be paid for with their money—not departmental funds.

We all know how much—or rather, little—money, our police officers earn and obviously \$550.00 is no trivial matter to them. It seems clear that these men perceive some unique quality in the Semmerling pistol. This quality is simple. The Semmerling pistol is the only ultra-small, therefore concealable, backup gun that fires the .45 ACP ("automatic") cartridge. This cartridge has, by far, the greatest stopping power of any handgun cartridge short of the blunt or hollow-point magnum revolver loads whose usage is currently being sharply criticized. The police officer is interested in stopping and immobilizing his antagonist, not in killing him. No backup gun can compare with the Semmerling in carrying out this task. It is fatuous to think of any gunshot as being merciful. However, it is true that the .45 ACP bullet will immobilize an opponent no matter where it hits—without having to hit a vital area at all. I am not here to debate moral or philosophical views on handgun control, and my previous statement borders on such a controversy. I am simply making the point that police desperately want the Semmerling pistol because it will stop without necessarily killing. No other backup gun of which I am aware can do this.

Legislation banning the small handgun *per se* will force the Semmerling pistol off the market. Restricting the sale of the Semmerling to police officers will reduce the sales volume to below break-even, thereby causing its demise. Our orders are about 1/3 police, 1/3 collectors, and 1/3 the general public. If one assumes that the Semmerling is socially desirable, or at least does not constitute a clear and present danger, in the hands of policemen; and if the assumption is made that police officers cannot obtain this weapon if it is withdrawn from the public market; then, one must ask how legislation can be drafted that will permit the continued production of a pistol such as the Semmerling, while prohibiting the manufacture of "Saturday Night Specials."

The key to this question is: there is a great difference between "small and cheap"—the "Saturday Night Special"—and merely "small"—the Semmerling pistol. On the one hand we have hundred of thousands of inexpensive, readily obtainable handguns that almost inevitably will filter down into the hands of persons who can most charitably be described as unqualified. On the other hand we see a heavy caliber handgun of exquisite quality and a price to match, which can be had only after a waiting period of months, because its volume is restricted to a few hundred units per year. Both weapons share a single attribute: they are small. It would be expedient to enact a law that prohibited both weapons on the basis of small size. However, the most expedient law is not necessarily the most just law.

I propose that each handgun be considered on a case by case basis. It is evident that certain guns are clearly contrary to the public good, and it is obvious that others are beneficial. A gray area exists between these extremes, but each case can be decided by qualified experts designated by the Bureau of Alcohol, Tobacco, and Firearms. It seems to me that this, rather than arbitrary criteria based on size or design, is the proper way of passing judgment on the availability of specific handguns to the public.

As an integral part of such a program, the size and annual production of each manufacturer should be considered. It is not always equitable to apply the same standards to small manufacturers as to large ones. It is well known that independent inventors have contributed disproportionately to technological development. That is to say, each dollar spent by independent designers has a statistically larger chance of producing new technology than each dollar spent by major companies. This is implicit in the structure of business. The independent inventor is no less talented than his counterpart in industry, but his expenses are a much smaller percentage of research dollars. I speak not only for Semmerling Corporation but also for other small arms companies whose products, because of their innovativeness, do not conform to the industry standards that formed the basis for—sny—the factoring criteria developed for the GCA 1968. Even the transportation agencies, which have caused such consternation in the automobile industry, make exemptions for small firms whose output is an insignificant fraction of the industry total. This is done in the name of innovation. It is difficult to predict whether any given technology will be needed at a future time, but it seems only prudent to foster innovative small businesses as, at minimum, a hedge against future needs.

As must be abundantly obvious, I am making a case for the Semmerling pistol. However, I believe that the same arguments apply to other existing and potential weapons made by small firms. I strongly feel that each handgun should be licensed for production on a case by case basis, and that the evaluation should be done by a qualified ATF panel. Size and design of a weapon should not automatically disqualify it as would be the case if arbitrary length, height, or other criteria such as the GCA 1968 factoring items were applied.

In the example of the Semmerling pistol, there seems little benefit in scrapping a design that is eagerly sought by the police and by collectors and which—by virtue of limited production, high price, and long waiting period—is most unlikely to be used criminally. The 6 inch by 4 inch rule, the GCA '68 factoring criteria, or their derivatives, would cause Semmerling to cease production. This seems wrong to me.

I have made my point at considerable length, and I hope not to excess. Turning to a different question, still germane to this Subcommittee's activity, I would like to make a statement about gun control in general. Categorically I favor very stringent gun control. However, I envision gun control of a nature diametrically opposite that propounded by many. I believe that any individual should be allowed to own any type of gun (except fully automatic weapons) provided that he passes very rigorous tests. These tests would measure psychological stability and maturity as well as shooting proficiency and knowledge of gun safety. By weeding out the immature and neurotic applicant, "crimes of passion" committed with guns would be brought under control. By periodic retesting of proficiency, accidental deaths would be reduced to minimal proportions. By strict regulation of the distribution of guns in commerce, the criminal would find it much more difficult to procure guns on the black market or the street corner. Finally, certain kinds of firearms that lend themselves to flagrant abuse—such as the true "Saturday Night Special," which is small and cheap and produced in great volume, would be taken off the market entirely.

By means of such a program, rather than by arbitrary legislation of a lip-service nature, we can bring the gun problem in the United States under control. An integrated, well thought out program would function, which arbitrary legislation would not; and, it would impose the minimum of hardship on manufacturers.

I am aware that tough gun licensing is about as politically palatable as requiring all automobile drivers to pass periodic skid control tests or else lose their licenses. Nearly all drivers would, at first, fail. Eventually, most of them would learn to control skids. The number of lives saved would be immense. But, many legislators would be bitterly resented, and so as a practical matter such a measure may be impossible. In the meantime, we permit drunken drivers to stay on the road, and we loose unskilled drivers to add to the carnage, and nobody seems to have the courage to attack the real bases of highway mutilation, which has little to do with speed limits.

The parallel with gun licensing is evident. To stop the gun carnage, we have to make licensing stiffer. We have to regulate the industry carefully. We must attack the real, underlying reasons for shooting deaths. Let us not

take the expedient path, but the path that will *work*. Will banning a 5-inch gun do the trick? Will a criminal or a psychotic fail to act because he can only get a 7-inch gun instead of a 5-inch gun? Is it not true that ready availability at low price is what determines the suitability of a gun for most shootings?

Certainly I speak from a biased point of view. This should not obscure the accuracy of my statements. We can, with an effort, treat the disease and heal the patient. Or, we can treat the symptoms, which will not work, and try to fool the public into thinking that a gun control law has come into being.

THE INCREDIBLE "VEST POCKET" .45

For over a century, double-barreled derringers have been favored as backup pistols due to their extreme compactness. Although derringers are ungainly, awkward, and inaccurate, their popularity persisted because nobody had developed a better backup arm of comparable dimensions.

Lichtman's Model 4 is a new 5-shot, .45 ACP magazine pistol that renders the derringer totally obsolete. Measuring only 5.2 x 3.7 x 1 inch, Model 4 has derringer dimensions, but uses modern technology to overcome the derringer's many disadvantages.

Model 4 is simple, containing only 30 parts; it can be cleaned without field stripping, and is effectively sealed against dirt. The gun is carried with one cartridge chambered, ready for instant double action fire. Subsequent rounds are fed from a magazine by cycling the slide manually, which is done from firing stance so that rapid aimed fire is feasible. Model 4 is extraordinarily reliable, since feeding and extraction are insensitive to variations in cartridge quality. There is no recoil spring; the slide is locked in battery by a crossbar integral with the trigger. The unusual slide runs forward, instead of to the rear as on conventional weapons.

The double action lockwork has the feel of a good revolver's. The inertial striker is internally blocked if the trigger is forward, making accidental discharge nearly impossible. The striker is propelled by a torsion spring. A mainspring linkage is not needed, so the pistol butt is hardly larger than the cartridges it contains. A further advantage of the torsion spring is the unusually high backstrap arch that it permits, which gives the weapon a balanced feel and "instinctive" pointing characteristics.

Lichtman's Model 4 is a streamlined, high quality backup gun combining tremendous stopping power with miniscule size and superb reliability. It is a very accurate gun, having large, square sights. All things considered, Model 4 is the last word in reserve hand guns.

LICHTMAN'S MODEL 4 . . . THE SMALLEST .45

By Jan Stevenson

The moment you really need a defensive sidearm, the premium is all on power. For the weeks and months preceding, however, the incentive has been toward comfort and concealment, light weight and compactness. The quandry is scarcely recent: ever since the development of the flintlock one has had to make a tradeoff between bulk and bash, and for most of us in the mid-twentieth century, the balance has seemed most reasonably struck with a snub .38 or a .380.

No knowledgeable gunner is particularly pleased with this state of affairs. It is merely that the next step up was such a long one. For the revolver man, the move from a .38 to a .357 meant an extra pound of iron on the belt. From a Colt Agent at 14 oz., or Detective Special at 21 oz., one went to the old Tropper or new Lawman Mk III at 36. From the S&W Chief's Airweight at 14 oz. or steel at 19, it was almost as long a reach to the Model 19 snub at 31 oz. or 4" at 35 oz. And when all was done, one was never completely sure that the primary gain, ballast aside, was not simply muzzle blast, for the projectile remained essentially the same.

The trade-up was easier in auto-loaders. The .380's: Walther PPK, Llama IIIA, Star Super SM, Mauser HSc, are all in the 20-23 oz. band, while the new Star BKS Parabellum goes 25 oz. Barely heavier are the S&W Model 39

and the Colt Commander at 26½ oz. If one is not obliged to double the avoirdupois when moving up the power ladder with automatics, the size differential remains. The BKS, compact though it is for a Parabellum, is still a substantially larger gun than the Super SM. And as far as volumetric displacement goes, the Model 39 is probably twice the size of a PPK. This is not a point I wish to insist on, for in relatively casual circumstances, a Commander is not notably more inconvenient than a .380.

Not all concealment situations of course are casual, and if the size of the gun is a problem, a problem it is, and perhaps a serious one. One makes do as best one can with what the manufacturers choose to make available, and the choices as we have described them are generally how things have been for several decades.

As for the future's being bright with hope, don't wait up nights for a name-brand panacea. When a manufacturer could sell the total production of his standard line several times over, there is little incentive for innovation. Moreover, since "concealable" handguns will, in all likelihood, be the subject of restrictive legislation within the next few years, you can be assured that nothing new will be forthcoming in this line from Colt, Smith & Wesson, Ruger or High Standard.

I see three beacons of cheer in the gloom nonetheless. The first is the Commander, which has still largely to be discovered in the carry-gun context, though it somewhat passes out of usefulness when a jacket or heavy shirt cannot be worn. The second is the Charter .44 Bulldog, with generally the same comments applying. The third is Phillip Lichtman, who is one of the three or four most talented handgun designers in the U.S. today.

Lichtman's goal in handgun designing has been to effect a quantum leap in concealment technology, to jack each category up to an entirely new level. His Model 2 is a blowback .380 no larger than a Colt/Astra .25. The Model 3, an unfinished design, might, if perfected, give us a locked-breech service auto not a great deal larger than a Walther PP. The Model 4 is a manually fed .45 repeating pistol substantially smaller than the PPK. Working alone, in his infrequent spare time over the past three years, Lichtman has, in this domain, provided a breath of fresh air at gale force.

The Models 2 and 4 are virtually finished designs, completely drawn up, toleranced, specced and prototyped. I have fired them. By rights, they make obsolete a great deal of what is currently on the market in concealment hardware. The Model 3, if redesigned, could cashier another substantial category. Yet, because of the legislative situation, the likelihood is remote that any of these guns will be manufactured in quantity. It is nonetheless important, I feel, that they be put on record. Massad Ayoub covered the Model 2 in *Massachusetts Out-of-Doors* (April, 1974), and I discussed it in *GUNS* (May, 1974). This is a first look at the Model 4.

The Model 2, you will recall if you read Mr. Ayoub's article or my own, is essentially an updated Bayard design. By oversimplifying a bit, we can say that in like fashion, the Model 4 is an updated Schwarzlose blowforward, bereft of the semi-auto feature. This should sound intriguing if not on the face of it terribly attractive.

Unlike the Schwarzlose's the breech of the Model 4 is locked solid on firing. The barrel assembly is then manually jacked forward to eject the empty, and hauled back to battery to reload the chamber and ready the arm for the next shot. In return for a slower cadence of fire and the general bother of manual operation, we get ultra compactness for a gun of the Model 4's rather awesome smash. For what we have to hand is a 5-shot .45 ACP which is substantially smaller than the PPK; indeed, it is almost as small as the High Standard Double Derringer, and a bloody sight more accurate.

The Schwarzlose design is the key to the Model 4's Lilliputian dimensions, but Lichtman was awhile getting to it. As far as that goes, the genesis of the Model 4 in all respects is a bit obscure, the chronology of his inspirations not being a subject Lichtman has much of a memory for. In any event, he wanted a pocket .45. It would have, he felt, to be locked breech, and the Model 3 had come off distressingly portly. Compacted to the limits, there was no way it could be forced into overall dimensions smaller than the Walther PP's. As best he can recall, it was the photo on page 298 of the 9th edition of *Small Arms of The World*, of a Communist Chinese .32 automatic with a slide block to freeze the breech for maximum effectiveness with a silencer, that first

led him to think in terms of a static-breech, manually cycled repeater. With this notion registered, the Chinese .32 passed out of the picture. But the Schwarzlose blowforward suddenly looked fascinating.

Lichtman has a gift for grasping the significance of old designs which seem either comical, futile or uninteresting to the nine-to-five firearms engineering crowd. The Schwarzlose is a prime case in point. This, the consensus went, was the 24 caret brass egg of pocket pistols, a bit of light humor emanating from an otherwise gloomy epoch. Like a gear shift on roller skates, cute and clever, but impractical Lichtman saw clearer. What attracted him to the Schwarzlose was the gun's generous proportion of barrel length to overall length: $4\frac{1}{2}$ " of barrel for $5\frac{1}{2}$ " overall. The standing breech is only long enough to accommodate the hammer arc; everything else is pipe. In this respect, no other magazine fed pistol can approach the Austrian forward shuffler. Here was a feature Lichtman coveted, and in order to incorporate it, he needed to study Andrea Schwartzlose's ingenious feed mechanism. On the 15th of August, 1973, he advertised for a Schwarzlose in *Shotgun News*. But by this time the Model 4 operation was well on the tracks, for his first notes and sketches are dated June 4th.

During the early stages of a new project, Lichtman writes himself a flurry of memos and queries, makes rough drawings of possible alternative design features, does the necessary calculations and generally ruminates on the design. This process took about four months for the Model 4. His sketches of June 4th concerned a locking system which was, in fact, not used, and his calculations of striker impact force are dated 24 October.

Once he feels the design has worked itself out in his mind, Lichtman proceeds according to a now-familiar pattern, undertaking a brace of distasteful chores with volcanic intensity and glacial implacability. Probably it is because he abhors the drawing board and detests machining that he goes about both so efficiently. It is more to his credit that he scrimps on neither side; his work in both is impeccable.

Lichtman does not like to cut metal at all until the drawings are done. He calculates tolerances at the board, specs each part in all directions, draws the cutaways, the exteriors and whatnot, and prefers to avoid the toolroom until the blueprint package is sacked and anointed. In the case of the Model 4, he seems to have plowed either side of the field alternatively. His first drawing—the layout—is dated October of 1973; most of the parts drawings were done in November and December, but the package was not completed until April, 1974, which, along with the previous February, had been a heavy month at the board. Meanwhile, he had begun fabrication on 5 November, 1973, turning the striker actuating pin, the slide limit pin and the extractor spring plunger, and beginning work on the striker. The trigger, trigger bar and magazine came next. From the 25th of February to the 8th of March, he worked on the frame, completing it in 32 hours. The barrel occupied him for 17 hours, from the 8th to the 14th of March, 1974. Altogether, the fabrication of the first Model 4 prototype took $74\frac{1}{2}$ hours machining, $8\frac{1}{2}$ hours polishing and $38\frac{1}{2}$ hours fitting, for a total of $121\frac{1}{2}$ hours, not counting heat treatment, fitting or tool making. In the course of the job, Lichtman had had to build four profile cutters and three broaches, and had modified about fifteen standard cutters. Add this all to the time spent compiling a very complete machinist's log on each operation, some 200 hours spent at the drawing board, and countless flips of the sandglass meditating the basic design, and the first prototype represents probably a 500-hour investment.

The gun, when it came out of the wash, was unmistakably a Lichtman, with its asymmetrical frame construction (trigger and guard assembly pancaked to the right, the slide track set well to the left, the striker offset to the right) and its checkered aluminum grips, the right one serving as a massive side-plate held on by three hex screws. It was a good looking and a hell of an awesome little handful. Weight, at 21 oz., was the same as the old Detective Special, but it was nowhere near the size . . . indeed, it was smaller than a PPK: shorter in both directions and flatter as well. Lichtman's little .45 measures .93" through the grips and .75" through the slide or frame. A .32 Walther, by comparison, goes .984" through the grips and .865" across the slide. The Model 4 came out $3\frac{3}{32}$ " tall and $5\frac{1}{2}$ " long with a barrel a bit over $3\frac{1}{2}$ " giving $3\frac{1}{32}$ " of sight radius. Looking at it nestled in the palm of the hand, with a couple of rounds alongside, was enough to give one pause.

The question, asked not without trepidation, was how it would shoot. In brief, would the kick be bearable?

There were two grounds for apprehension. First, launching the .45 ACP from a 21 oz. platform was a bit of a novelty in itself. And second, the gun fired from a static breech. A semi-auto feeds you the recoil in installments since a lot of energy is held in suspension while the slide is trundling rearwards. The Model 4, on the other hand, fires locked solid like a revolver. It would drop its bricks all at once, take your hand off with one snap of the jaws if it proved of carnivorous disposition. Lichtman braced for the bash, and so did I, since I was going to have to fire the thing as well. After all, I had constantly encouraged him to design an ultra-small, manually cycled .45 ever since he had first mentioned the idea over a year before.

The answers started coming on the 28th of April, 1974, when Lichtman fetched the piece to the range for the first time and ran 65 rounds through it: two rounds of Super Vel and the rest of hardball. The little wretch kicked, he confessed, like the Devil's donkey. On the 2nd of June he managed to engender a bit of a masochistic mood and shoved another 50 rounds through her. The gun was, he noted in the log book, "brutal to fire." I returned to the U.S. a fortnight thereafter and went immediately to Boston. I was due a week later in Alabama to help run a fence line across some wasteland, and reasoned that if I could get the Model 4 to dislocate my thumb, I might be invalidated off the perspiration party. With my expectations at such a pitch, I was bound to be disappointed. On the 27th of June, Lichtman and I—between us—burned off 97 rounds of hardball, bringing the log to 212 rounds total. The gun was in spiffy shape still, and the shooters only slightly less so. The Model 4 belts, to be sure, but it can be shot and shot well. An inexperienced shooter would soon have a horrendous flinch, but a practiced handgunner will merely set his jaw and concentrate on sights and trigger. I did not pay much attention to the kick for about the first twenty rounds. At that point I noticed that the palm of my hand appeared to be swollen along the line of the backstrap and was in any event tender to the touch. I draped a machinist's rag over my hand and carried on firing. The cloth helped a lot. The Model 4 can, I reflected, be fired barehanded for brief stints without much discomfort, and would be agreeable enough for extensive shooting provided a golf or driving glove were worn on the gun hand. It is vastly more comfortable a gun to shoot than are some .380's which considerably exceed it in bulk. For kick, in my experience, is almost solely a function of grip design, and the Model 4 does not concentrate recoil on the web of the hand as the offending .380's do. Lichtman wrote me recently that he had fashioned a set of wooden grips that seemed to spread the recoil over a larger surface, and made the pistol a great deal more amiable at the shooter's end. I look forward to trying them.

Providing one could avoid flinch, the gun shoots quite well indeed, considering what it is, and that it is double-action-only. I found a tendency to throw tight three-shot groups, with an occasional cloverleaf, at both twenty-five and fifty yards, but could not keep five shots together. The flier—or more often two fliers—would be 3" to a half foot away from the group. This I blamed on my inability to completely dominate an incipient flinch, although it ought to be said that any small, light pistol, .22's included, is difficult to get through a full string with creditably, due to its disinclination to hang steady-on. Quote a representative group for me was four in 4" with the flier 3" out, this at 25 yd. At the same range, Lichtman put four in 1 1/4" with the fifth shot 2" out for a 3" five-shot group. I put three in 1 1/4" with two fliers 3" out in opposite directions, while Lichtman turned in another superb group: a three-shot cloverleaf with all five in 2 inches. All firing, it should be noted, was from standing position with a two-handed hold.

At fifty yards, I printed a three-shot cloverleaf with both fliers 3" left and 5" low and high respectively. Lichtman turned in very steady five-shot groups at the longer range, running about four to five inches across. To summarize, from a Weaver stance the Model 4 will print into 3" at 25 yards and into 6" at 50 with no great strain. This is the kind of accuracy I want from a pocket pistol.

With the answers in on accuracy and recoil, firing cadence was the final question to be addressed at the range. The way to handle the Model 4, Lichtman had discovered, was with the thumb of the bracing hand lying along the barrel. As soon as the shot is launched, the thumb darts up to the serrated rib between the front and rear sights, where it has good purchase, and flicks the barrel

assembly forward, ejecting the spent case. A flick rearward returns the barrel assembly and chambers a fresh cartridge. Ordinarily, this works almost effortlessly. The return phase, or feed phase, is particularly positive, since in addition to the rib serrations, the thumb has the front face of the rear sight to pull against. Towards the end of the day—after seventy-five or so rounds shooting groups—we had gotten the chamber rather gummy and encountered occasional resistance on the forward phase when a case was reluctant to come unstuck. This would cause a half-second or a second's delay since the left hand would have to be shifted upward slightly to give the thumb more purchase.

The first two timed sets went 11 seconds and 10 seconds respectively for five shots each, and produced a decent composite group at the bottom of the paper which I did not bother to measure. Another set went 11 seconds, but would have been faster had not the chamber stuck on the fourth round. A final set took 14 seconds, with the chamber sticking a couple of times, but produced a 6" group which rather redeemed it. All these strings were fired a 25 yards. Generally, and assuming a clean chamber, I think that after a bit of practice one could count on a two-second cadence—five shots in ten seconds—with all hits on a sheet of letter paper at 25 yards. At very close range, one could doubtless boost the speed a good deal, as well as bulling through anything in the way of extraction problems that might come up, by simply laying the left hand across the barrel, gripping the slide serrations, and jacking the barrel assembly forward and aft while firing. This would sacrifice accuracy for a volley effect, which does not strike me as a clever notion with a five-shot pistol. I did not try it.

The Model 4 was an intriguing idea from the start; after the range session it appeared positively enchanting, and obviously merited a closer look inside. The heart of the gun is the feed system, the locking system and the firing system, which we shall examine.

The Model 4's feed system is a modified or improved Schwarzlose, the improvement residing, primarily in the greater stability of the cartridge in feed position. The Schwarzlose simply flung the top round forward clear of the magazine lips with every confidence that it would be scooped out of the air by the barrel which, by now, was hurtling rearward; the round trip would have been measured in microseconds. Lichtman would have to do better. Since the Model 4 is manually cycled, the celerity with which the barrel is returned depends on the dexterity of the firer. And since the round is pushed clear of the feed lips on the forward stroke, there was every chance it would, on occasion, simply, roll out of the breech onto the ground if the shooter had the misfortune to cant the gun rightward before bringing the barrel to battery. There are three features which work in conjunction to freeze the cartridge in feed position and prevent this from happening; they are best described in the context of the fired cycle.

After a shot is fired, releasing the trigger unlocks the breech, permitting the barrel to be shoved forward. The empty case is held against the breechface by the extractor until the ejector, a shoulder on the barrel tail, humps it clear. This "tail" is an integral part of the barrel-cum-slide which extends rearward along the left side of the receiver to the very back of the standing breech. Two shoulders jut inward near the end of the tail. The forwardmost of these is the ejector; behind and beneath it is the cartridge advance shoulder. The top round in the magazine is forced up into a concavity beneath the ejector of which the cartridge advance forms the rear wall. As long as the cartridge is held back against the advance shoulder, it is secured from moving rearward, upward, or leftward. It would have to move forward half its length in order to escape vertically, by which time the bullet would be well into the chamber. The problem was to secure it from starboard.

To this end, Lichtman has added two elements to the Schwarzlose design. The first of these is a cartridge arrester—a spring tempered hook or lip which is bent inward from the top right wall of the magazine, and snaps into the extractor groove when the round has been advanced to correct feed position, and keeps it from carrying on forward under its own momentum. The second is a sheet steel plate set vertically into the right side of the receiver, forming in effect, an extension of the magazine wall, a sort of $\frac{5}{32}$ " dike which keeps the front end of the advanced cartridge from rolling rightward.

Before we lose track, let us return to our description of the feed cycle. We had released the trigger and trucked the barrel forward, shucking the chamber off the fired empty, which was held against the standing breech until the ejector booted it off toward the bushes. As the barrel moves forward, the rear-

most shoulder on the barrel tail abuts the base of the top round in the magazine and shoves it forward. After $1\frac{1}{32}$ " of travel, the cartridge is clear of the magazine lips, and pressure from the round beneath it forces it up into the concave pocket underneath the ejector. After another $1\frac{1}{32}$ " the arrester snaps into the extractor groove, blocking the round into feed position just as the barrel reaches its forward limit of travel. On the return trip, the chamber scoops the cartridge up, envelops it, and forces its base firmly against the breechface, as the extractor snaps over the rim.

The process is nearly foolproof. The Model 4 will cycle empties with equanimity—indeed, seems marginally to prefer them to loaded rounds. The bullet gives a live cartridge a lot of potential momentum on the forward stroke, and I have seen a round override the arrester on several occasions. Only once though have I had a round bounce out of feed position and leave the gun, and I have cycled the Model 4 extensively on either side and upside down. Lichtman has done the same and says he has never had a round fall out. In the event it should, the weapon is in no way jammed, and another full cycle will load the piece. In short, the Model 4 earns high marks on reliability. Ejection is snappy, and jams on feeding virtually non-existent. The only stumble is likely to come in extracting from a gummy chamber, and this, in our experience, only involves a second or two's delay while more muscle is put to the task.

The Model 4's locking system is interesting, original and patented. Strictly speaking, the weapon is only locked on firing. Whenever the trigger is forward, the barrel is held in battery by a spring-loaded detent which takes the form of a half-moon inset into the right side of the frame engaging a crescent cut in the underside of the barrel. A sharp push forward on the barrel after the trigger is released cams the detent down into the frame, whence it snaps back up as the barrel returns to battery. The retentive power of the detent—a function of spring force and geometry—was the subject of much reflection. Were it too stiff, cyclic rate of fire would suffer drastically; were it too light, the barrel would tend to fall out of battery of its own accord. The compromise represented by the prototype I fired seemed about right. A sharp snap of the wrist would not cause the barrel to override the detent, yet the piece was easily thumb manipulable. A form-fitted holster which depended on friction for retention would, however, be highly inappropriate for the Model 4.

The detent is intended merely to hold the barrel in battery during carry. An infinitely stouter lash-up is needed to keep the breech shut during discharge, and here Lichtman's solution was of brilliant simplicity. The trigger pivot is a .315" shaft which is planed to half-round at its midsection. As soon as the trigger is hauled rearward, the half-round rotates up ahead of a massive lug on the underside of the barrel, blocking the breech with all the superfluity of strength of a rolling block rifle. When the trigger is released after the shot, the half-round retreats once again into the floor of the frame permitting the barrel locking lug to pass over it as the upper structure trucks forward. To backtrack a bit, as the trigger is being pulled through and the half-round on its shaft is rolling upward, an extension of the nose of the trigger is simultaneously rocking up into a notch in the lower right side of the barrel. The trigger, therefore, can only be pulled when the barrel is in battery, so that the notch is directly above the trigger nose. As soon as the barrel is advanced, the trigger is blocked forward, thus keeping the half-round bottomed in the frame where it cannot obstruct the barrel on the return stroke.

The Schwarzlose was hammer fired. Those searching for a design antecedent for the Model 4 in this respect would be nearer the source if they looked to the Le Français, though I do not believe Lichtman has ever examined the Manufrance pistols. Nonetheless, the Le Français, like the Model 4, is striker fired and uses a straight-push trigger bar which cams out from under the striker lug to release it to fly forward. Differences, of course, abound. The French gun uses a sliding trigger, whereas that on the Model 4 pivots. Springs, geometry and a profusion of design detail also avoid further comparison. The striker spring—a powerful, high quality torsion spring—particularly merits attention. The Le Français demonstrated that a striker-fired, d.a.-only system permits a superb trigger pull, and only the linear compactness of a torsion spring permitted its incorporation in the cramped quarters of a Schwarzlose standing breech. Despite a rather light striker with only a half-inch throw, Lichtman was able to achieve a primer impact of 4 inch pounds (equivalent to that on

the 1911, the Model 39 or the HSe) without sacrificing a fine trigger pull. This is the more laudable in that his attraction to striker firing was probably inspired by the fact that it is a much simpler manufacturing proposition than a hammer arrangement would have been.

While cataloging design features, we might cast a final quick glance at the magazine release system, which was got at by running stepped saw cuts up either side of the magazine body from the bottom, bending out the resultant flaps, and spring tempering them so that when the magazine is inserted they snap outward, their four shoulders engaging four adjacent ledges on the frame. This is cheaper and no slower than a heel-of-butt release, much cheaper and much slower than a push-button release, and has something of the air of a Balkan, basement-built Brixia. In its favor are the factors of unobtrusiveness and security.

It goes without saying that the Model 4 is built of the finest materials to be had; a gun which crowds its cartridge into such dimensions would virtually have to be. Since Lichtman himself has discussed firearms metallurgy in a forthcoming article for some future issue of *Gun Digest*, describing in detail the materials and processes he himself uses, we shan't go into that side of it here.

Granted the Model 4's exotic novelty, how practical is it finally as a weapon? Were we to make out a ledger we would have on the credit side a gun with relatively few parts (half as many as most semi-autos) reasonably easy to manufacture and of outstanding reliability. The gun feeds like a milk bucket; the individual parts are robust. There is very little to go wrong providing it is properly built. It is ultra small, exceptionally accurate for its size, has excellent sights, a fine trigger, an absence of superfluous catches and levers, the safety characteristics of a d.a.-only revolver and an extremely long barrel for its overall length which gives full muzzle velocity and very little muzzle flash. When in battery, it is well sealed against the elements, there being no ejection port or hammer slot. It points nicely and is tolerable to shoot in moderate doses.

On the debit side, we have a very slow fire cadence—two seconds a round on the average using both hands (and much slower if the piece has to be cycled one-handed)—in a gun which some people will find intolerable to shoot at all. Recharging time is acceptable, but not optimum. Considerable practice is necessary before one can be confident of his ability to manipulate the slide smoothly and positively under stress; the Model 4 would be an extremely difficult weapon to use with cold-numbed hands. Care needs to be taken to choose a holster which will not, under any circumstances, drag the barrel over the detent on the draw.

What are we left with when the tradeoffs are made? To my view, with a handful of dynamite. We still have a five-shot, magazine-fed .45 ACP in an accurate gun substantially smaller than the PPK and not a hell of a lot larger than the High Standard Double Derringer. This is portentous. My opinion of the .380 as a defensive cartridge is somewhat southward of my opinion of the .38 Special. It in turn has about crossed the equator in my esteem as cuses come in of the .357 Magnum's proving an utter failure in gun fights. The sacrifice in volume of fire is one that I am unreservedly prepared to make if the move is down in bulk and up in power from .380 to .45. The Model 4 is the supreme second gun; nothing its size should be risked as primary protection unless trouble is deemed unlikely. It demands extraordinary coolness on the part of its user, but well repays the effort.

Surprisingly, it is, or soon will be, available. Not in quantity though, and not at a price to appeal to the masses. Despairing with good reason of finding a commercial manufacturer for the Model 4, Lichtman has built the tooling for it himself, and is having a private machinist make up a small run on a pattern-room basis. I do not know exactly how many are to be built, but I would imagine about a sea-chest full. Price is expected to be in the region of 550 dollars, which is a frightful sum, but not much more than some target pistols and some combat conversions are fetching. There will be a coterie who will grit their teeth awhile and finally fork over for a unique handgun they suspect might make a significant contribution to their longevity. By way of consolation meantime, they can reflect that Lichtman is very unlikely to recoup minimum wages for the hours he has spent gun designing.

As of this writing Lichtman is not accepting checks, but will reserve a gun on the basis of a firm letter of intent. He is reachable at: Philip R. Lichtman, 50 Sun Street, Waltham, Mass. 02154.

THE ULTIMATE HOLDOUT GUN . . . LICHTMAN'S MODEL 2

(By Jan Stevenson)

Sanctimonious moralizing notwithstanding, ultra-small handguns have a legitimate place. To contend otherwise is either to repeal the right of self defense or to show an uncouth contempt for decorum. For there are circumstances where, although the occasion for armed self-protection might arise, conspicuous bulges or an accidental flash of hardware are inadmissible.

Undercover investigators can run into particularly sticky situations where the nature of the cover will preempt most of the conventional locations to hang a handgun, and the remaining possibilities will accept but a minimum of iron. Uniformed officers and plainclothesmen alike find it advisable to pack a second gun, in case they are relieved of their primary piece—indeed, some carry three pistols to be all the more assured of having one left. The ultimate holdout wants to be really well hidden, and both this consideration and the fact that the officer is already burdened by an overload of diverse professional paraphernalia, dictates that the hideout be as small and light as possible.

Visual intimidation of course is in the eyes of the beholder, and we are told that a nicked 1911 takes the plaque in this category. It stands to reason that the more discrete the piece, the less its intimidation value. An unquantifiable proportion of assailants who would have been fetched back to their senses by the muzzle-on view of a big gun may persist when faced with a watch-fob auto. And while no one in his right mind would choose to be shot with anything, the fact remains that the assailant, although he may lose the war, stands a fair chance of winning the battle; small automatics are notoriously poor stoppers. A small automatic in this sense means a .22 or a .25. Ballistically there is not a lot to be said for them, but often they are the only gun the size requirements will admit. Either a snub .38 or a mid-frame auto is substantially bigger, and resolutely too big for some concealment situations. One is forced back to the miniguns, like it or not. Were there a gun—say the size of a Colt/Astra .25—which would deliver the stopping power, firepower and accuracy of the PP or PPK (which many prefer to a snub .38) it would represent a quantum leap in ultra-concealment technology.

Such a gun exists and I have fired it. It performs superlatively. Though chambered for the .380 ACP, its bulk is almost precisely that of the Colt/Astra .25. The pity of it is that it is not in production, and, given the reigning climate of apprehension in the American handgun industry, likely never will be. That does not perforce make the gun less interesting. It should be described, I feel, if for no other reason than to put it on the record. For, by rights, .25 autos are henceforth obsolete. Technology has left them and, in all likelihood, American industry as well, far in its wake.

The gun in question, known for chronological reasons as the Model 2, was designed and built by Philip Lichtman of Boston, Mass. In an age in which monstrosities like the S&W Model 61, third carbons like the Bauer .25, and tiny leaps forward like the Colt Mk. III issue from factory engineering departments, it might be of interest to see in what sort of environment significant improvements in firearms are taking place. Phil Lichtman is not an engineer, though he might as well be. Despite a respectable stint in academia, he does not, as far as I know, have any degree at all. He is simply a pistol buff possessed of a keen intellect, an intense curiosity and extensive knowledge of things technical, scientific and mechanical, and the type of personality which once seized of a problem, stays with it until it is resolved.

Lichtman's primary field is optics. In high school he was one of the Sputnik era science whizzes, built telescopes at home, and constructed an observatory in his back yard. After graduation he went to Harvard where he spent five years studying physics and astronomy, and got progressively more interested in sports car racing. Leaving the university, he made the racing circuit, driving a Mercedes. In 1961 he started an automobile repair shop specializing in Maseratis, Ferraris, and Mercedes-Benz, and, with the business built up to the point that

eight mechanics were well occupied tuning exotic vehicles, Lichtman staked off a back corner of the shop and built himself another telescope. The result was a half-ton spyglass he didn't know what to do with. He placed an ad in a scientific journal and sold it within a week. By the time he had built and sold several more, he had become aware of an extensive market in this line. In 1967 he sold the garage and continued with optics exclusively. In 1968 he was made an irresistible offer for the telescope business, and saw his bank account soar to the point that a year off looked feasible.

Mr. CONYERS. Thank you very much.

We turn now to Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

I have looked at the statements and listened to the testimony, and I have no questions.

Mr. CONYERS. Mr. Ruger, do you have any concluding observations? We appreciate your cooperation.

Mr. RUGER. No, Mr. Chairman. I think that I have said the things that have crossed my mind most powerfully. And I think actually that the committee has accumulated an immense amount of points of view. And I see that many of the ideas and arguments which I thought were my particular property have been brought out by others.

Mr. CONYERS. Thank you very much.

Mr. Lichtman, your observations are very interesting and unique in comparison to those other manufacturers.

We are grateful to all of you, and hope that you will continue to give us the benefit of your suggestions.

Thank you very much for coming.

The subcommittee is adjourned until further notice.

[Whereupon, at 1:10 p.m., the subcommittee recessed subject to the call of the Chair.]

FIREARMS LEGISLATION

THURSDAY, JULY 24, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

This subcommittee met, pursuant to notice, at 10:15 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee], presiding.

Present: Representatives Conyers, Mann, Thornton, McClory, and Wiggins.

Also present: Maurice A. Barboza, counsel; and Constantine J. Gekas, associate counsel.

Mr. CONYERS. The subcommittee will come to order. We will continue hearings on firearm legislation. I am very pleased to have as our witness today the Assistant Secretary of the Treasury, Mr. David R. Macdonald. We have a biographical sketch of Mr. Macdonald and I would like to welcome him and Mr. Rex Davis and the other members of their staffs who have been here before. Mr. Macdonald is the principal adviser to the Secretary of the Treasury with regard to policy guidelines on all Treasury law enforcement activities, which of course include the Bureau of Alcohol, Tobacco, and Firearms, as well as Secret Service, Customs, and a number of other offices within the Treasury Department. Mr. Macdonald serves as the U.S. representative to the International Criminal Police Communications Organization. We welcome you, Mr. Macdonald, and we appreciate your detailed statement which without objection will be entered into the record at this point. That will enable you to summarize and make any additional comments you might choose.

[The prepared statement of David R. Macdonald follows:]

STATEMENT OF HON. DAVID R. MACDONALD, ASSISTANT SECRETARY OF THE
TREASURY (ENFORCEMENT, OPERATIONS, AND TARIFF AFFAIRS)

Mr. Chairman, I am David P. Macdonald, Assistant Secretary for Enforcement, Operations, and Tariff Affairs, Treasury Department. I am pleased to be here today to discuss with you the President's legislative program regarding firearms regulation. Accompanying me are James B. Clawson, Deputy Assistant Secretary for Operations; James J. Featherstone, Deputy Assistant Secretary for Enforcement; Rex D. Davis, Director, Bureau of Alcohol, Tobacco and Firearms; and Marvin J. Dessler, Chief Counsel, Bureau of Alcohol, Tobacco and Firearms.

As you know, in his recent Congressional message on crime, the President emphasized the need for more effective firearms legislation and enumerated specific areas wherein the need for remedial legislation is most urgent.

As the President has indicated, the increase in violent crime in America has grown to such proportions as to become a matter of foremost concern in the minds of most law-abiding citizens. On the one hand, the President feels that

legislation in this area is not invariably a royal road to the moral goal of a non-violent society. On the other hand, even though many people in this country feel that any legislation in this area is a pernicious invasion of their rights, some imaginative legislation should be tried which may bend us away from our headlong rush to increased violent crime. We all must determine how far legal processes are adapted to accomplish the objective of reduction in firearms violence that all of us seek to secure. Legislation in the area of firearms control, as elsewhere, must be a wise blend of accepted principle and courageous experiment.

In this respect, Mr. Chairman, I would like to compliment you, Mr. McClory and the Committee for the truly open-minded spirit in which this Committee has held hearings over the last several months on this most difficult and controversial subject. The light generated by your hearings has substantially exceeded the heat.

It is undisputed that the easy availability of firearms, especially handguns, does contribute to the frequency of violent crimes, particularly between family members and friends. Furthermore, the Treasury Department has observed that the staggering increase in crime that has occurred in recent years has also engendered a "race to arms" on the part of frightened citizens that all too frequently results in tragic consequences.

Accordingly, the proposed legislation contains a number of diverse but inter-related provisions which are intended to effectuate a single objective, to restrict and deter the misuse of firearms.

In furtherance of this goal and in specific response to the President's objectives as expressed in his June 19, 1975, crime message, the proposed legislation includes provisions addressing the following critical areas:

(1) The need for sufficient licensing standards to insure that Federal licenses will only be issued to responsible, law-abiding persons who actually intend to conduct a bona fide business;

(2) The need for more comprehensive controls upon the sale of handguns by Federal licensees in order to reduce the number of handguns sold to individuals in violation of Federal, State and local laws;

(3) The need for controls upon the importation of parts for and the domestic manufacture and assembly and sale of small, lightweight, easily concealable, and inexpensive handguns commonly known as "Saturday Night Specials";

(4) The need for an effective statutory means to prosecute and punish felons and other dangerous persons for the possession of firearms;

(5) The need for a mandatory sentencing provision that will apply, not only to recidivists, but also to first offenders who carry or use a firearm in the commission of a Federal felony;

(6) The need for effective controls upon the multiple sale and purchase of handguns; and

(7) The need for statutory provisions prohibiting the sale or transfer of firearms, especially handguns, by non-licensees to persons who are prohibited from purchasing, receiving, or possessing such firearm by Federal, State or local law.

The Treasury Department has consistently maintained the position that the underpinnings of effective firearms regulation must be a body of responsible and cooperative Federal firearms licensees. The most critical point of contact in the implementation of Federal, State and local firearms regulations is the firearms dealer. For in the majority of cases it is he who must assure that firearms sales are in compliance with the law. In short, the Federal licensee can become a critical asset or an unmanageable liability in our quest for responsible firearms regulations.

Indeed, the legislative history underlying the licensing provisions of the Gun Control Act of 1968 reflects a major Congressional concern that licenses would be issued only to responsible, law-abiding persons actually engaged in or intending to engage in business as importers, manufacturers, or dealers in firearms or ammunition. Unfortunately, it has become apparent in recent years that Congressional aspirations in this regard have been frustrated by a proliferation of applications from individuals who never intended to engage in a bona fide firearms business, but who merely desire a Federal license in order to obtain firearms or ammunition for their personal use at wholesale prices or to receive firearms in interstate commerce for that purpose. Frequently, such individuals lack both the business experience and financial capacity needed to conduct a business. In any event, the number of licensees is beyond ATF's ability to audit on any reasonably recurring basis.

Present Federal law requires every applicant for a Federal firearms dealers license who pays his \$10 annual fee to be issued a license within 45 days unless he is under indictment for a felony, convicted of a felony, a fugitive from justice or a drug user or addict. Consequently, the Bureau of Alcohol, Tobacco and Firearms has been compelled to issue literally thousands of licenses to individuals, not all of whom engage in the business of dealing in firearms full time. Under the existing law, more than 160,000 individuals or entities are currently licensed to conduct firearms businesses in the United States. Since the passage of the 1968 Act, this figure has increased yearly. Of this number, it is estimated that less than 30 percent actually conduct a bona fide firearms business. Due to the sheer magnitude of the number of licensees, it is impossible for ATF to monitor each licensee and it is becoming increasingly difficult to maintain a meaningful and effective compliance program based upon even random or periodic inspections.

Accordingly, the Administration proposes amendments to the Gun Control Act to tighten existing licensing standards in order to reduce the number of Federal licensees and discourage what might be called "nominal" applications.

First, we propose amending the existing licensing standards by including a provision which would permit the Treasury to inquire into each applicant's business experience, financial standing, and trade connections in order to determine whether the applicant is likely to commence the proposed business within a reasonable period of time and maintain such business in conformity with Federal, State and relevant local law. A similar provision relating to an applicant's likelihood of complying with Federal law has existed for a number of years in the issuance of liquor permits to persons engaged in liquor businesses under the Federal Alcohol Administration Act. The provision has functioned fairly and effectively in that context and has been reasonably interpreted by the courts.

A second proposal is to amend the Act to create special license categories for ammunition dealers, gunsmiths and dealers in long guns only. Experience has shown that a large portion of existing licensees (perhaps 20 to 30 percent) are engaged almost exclusively in selling ammunition. In fact, many of these licensees are small "mom and pop" stores which carry ammunition only as a convenience to their customers. Under existing law, separate categories do not exist for these persons and they receive the same dealer's license that is issued to firearms dealers. The establishment of these special licenses with a graduated fee schedule would restrict those persons to engaging in their limited activities. Hence, neither a gunsmith nor an ammunition retailer could lawfully sell firearms, and a long gun dealer could not sell handguns, but a firearms dealer would be permitted to sell all firearms, ammunition and to repair firearms. The new licensing structure would facilitate a more efficient and economical assignment of inspection priorities since these "limited" licensees would not require the same scrutiny as would unlimited firearms dealers.

Among the reasons for the increase in license fees for pawnbrokers, it should be noted that one facet of ATF's "Project Identification," which involved the tracing of firearms used in crime in eight major urban areas, reflected that 30 to 35 percent of the handguns used in crime had passed through pawnshops. We would also apply the handgun-long gun fee distinction to the licensing of manufacturers and importers of firearms.

We also find that there is a need for a greater range of penalties than presently exists with which to deal with firearms dealers who violate the laws. In this connection, we believe that ATF should have authority to suspend firearms licenses and assess civil fines. Under existing law, licenses are subject only to revocation if the holder has violated any provision of law or regulation. The only alternative to administrative revocation is the criminal prosecution of the licensee for violations that frequently are only inadvertent. While any violation of the Gun Control laws may be deemed to be serious, some are less serious than others and do not warrant the institution of criminal or revocation proceedings. Even inadvertent violations, however, may warrant administrative action less severe than license revocation.

Turning now to the matter of handguns, the problem engendered by the proliferation of handguns in America's cities has become self-evident and requires no real elaboration. Suffice it to say that recent estimates place the number of handguns in America at about 40 million while deaths by handguns have increased almost 50 percent in the last decade. The President has expressed

concern over this matter and in his message on crime has called for measures against the so-called "Saturday Night Special" handgun. Accordingly, the Administration's proposals embrace a number of provisions which are directed at the handgun problem generally and more specifically at the proliferation of low quality, inexpensive handguns known as "Saturday Night Specials."

In recent years the Administration has carefully evaluated a number of legislative proposals which have had as their principal objective the eventual removal of the "Saturday Night Special." Although the various proposals have taken a wide range of approaches, all of the proposals are premised upon the fact that these small, lightweight, easily concealable and inexpensive handguns present a unique danger to the American public.

Effective proscriptions cannot be implemented against such firearms unless the law also defines with precision what weapons are to be affected. We propose that the so-called "factoring criteria" utilized under the Gun Control Act of 1968 for determining the eligibility of handguns for importation under the "sporting purpose" test be adopted, with certain modification, for use in the Saturday Night Special area.

In order to qualify for manufacture, assembly, sale or transfer under this proposal a handgun would be required to meet certain size and safety prerequisites and achieve a specified number of points according to the statutory criteria. Among the factors to be used as a basis of assigning points would be size, frame construction, weight caliber, safety features and miscellaneous equipment. To reduce concealability, a barrel length of over four inches and a frame length of four and one-half inches would be mandatory for revolvers, and an automatic would have to be at least four inches high and six inches long.

Further, our proposal would include provisions for the notification of licensed importers and manufacturers of the results of handgun evaluations and would afford judicial review of adverse decisions by ATF. In order to provide an identical test to cover both foreign and domestic handguns, we would recommend that the import provisions of the 1968 Act be amended to add the detailed criteria I have described to the general language of the "sporting purpose" test now used for regulating importation of handguns.

Treasury intends to publish lists of qualifying and non-qualifying handguns. After the date of such publication, transactions in disapproved handgun models would be unlawful. While our proposals would not rid the Nation of these firearms overnight, we do believe such proposals will effectively reduce the accessibility of these weapons to the criminal element.

In order to reduce the flow of handguns to criminals the Administration is proposing procedures which would be mandatory for all licensed dealers prior to making a handgun sale. Such procedures are intended to impede the acquisition of handguns by criminals while not imposing an unreasonable burden on either dealers or their law-abiding customers.

First, we would require that all handgun purchasers appear in person at the dealer's premises and provide the dealer with proper identification prior to sale or delivery of a handgun. Secondly, we would require that the prospective purchaser execute a sworn statement listing his name, address, age, residence, place where he intends to keep the handgun and containing a statement that his receipt of a handgun will not place him in violation of State or local law at his place of residence or at the place where he intends to keep the handgun. The statement would also contain a provision stating that the purchaser does not intend to resell the handgun to a person who is prohibited from owning a firearm by Federal, State or local law.

The proposal further provides that the sworn statement shall be mailed to the chief law enforcement officers at the purchaser's place of residence and at the place where he intends to keep the handgun in order that such law enforcement officers will be permitted to request an FBI name check to determine if the purchaser is prohibited by Federal, State or local law from acquiring or possessing a handgun. If the dealer receives a response from such law enforcement officers indicating that the purchaser is barred from purchasing a handgun the sale would, of course, be prohibited. If the response is not unfavorable to the applicant the sale could be consummated. If no response is received within fourteen days after the sworn statement is mailed, the dealer could lawfully make a handgun sale.

As an adjunct to the handgun and Saturday Night Special proposals which I have outlined, the Administration also proposes statutory restrictions upon the multiple sale and purchase of handguns. These proposals are designed to impede purchases of large quantities of handguns in States having relatively lax handgun control laws and transportation of these handguns for resale in another State. Frequently such weapons are "Saturday Night Specials" and are sold in the destination locality for several times their original cost.

An indication of the magnitude of this problem is provided by ATF's "Project Identification." This project revealed that approximately 53% of the handguns traced in twelve major metropolitan areas had originated with retail dealers in States other than those in which such handguns were ultimately used in the commission of crimes. Furthermore, in many of the cities surveyed, the percentage of handguns having an out-of-state origin was much greater. For instance, 92% of all handguns traced in Detroit had originated from out-of-state dealers. In New York the figure was 77%, in Kansas City 65%, and in Philadelphia 46%.

Due to the large volume of handguns involved and the adverse impact exerted upon State and local governments in their attempts to enforce effective handgun control laws, the Administration views the bootlegging problem as a matter of pressing importance. Moreover, it has become evident that this illicit firearms trafficking has been facilitated by the absence of Federal controls upon the multiple sales of handguns. Under existing law, an individual who is qualified to purchase a single firearm from a licensee may also be qualified to purchase an unlimited quantity of firearms.

In order to thwart the continuation of this illicit trafficking in handguns, we propose to prohibit the sale or transfer without prior approval by a licensee of more than one handgun to any non-licensee within a thirty-day period. Furthermore, an unapproved multiple purchase by a non-licensee would also be proscribed. It is anticipated that regulations would allow multiple purchases in such cases as purchases by a licensed security agency, or by a bona fide target club. Also, regulations would establish a procedure for individuals to obtain personal approval for a multiple purchase upon a showing that the proposed purchase is for good cause and consistent with the public safety.

As an additional means of restricting the availability of firearms to criminals, we propose that it be made unlawful for any person to sell or otherwise dispose of a firearm to a person unless the transferor knows or has reasonable grounds to believe that the purchaser is not a felon or does not fall within any of the additional categories of persons who are prohibited by Federal law from possessing, shipping, transporting, or receiving firearms. Under existing law Federal licensees are bound by a similar requirement but non-licensees are free to sell without risk of prosecution to felons or other proscribed persons, provided the purchaser is a resident of the same State as the transferor.

Furthermore, in the case of handguns, we propose that it be made unlawful for any person to purchase a handgun with the intent of reselling or transferring such handgun to a person who is prohibited by Federal, State or local law from purchasing or possessing a handgun. This provision is aimed at the "straw purchases" by which many criminals obtain handguns and would provide a direct means of prosecuting the transferor in such a scheme. Under existing law such persons can only be prosecuted for aiding and abetting the receipt of such firearm by the proscribed person. The aiding and abetting theory has proven to be somewhat strained in many situations and we believe a more direct prosecutorial vehicle is required.

As the President has stated in his June 19 crime message:

"There should be no doubt in the minds of those who commit violent crimes—especially crimes involving harm to others—that they will be sent to prison if convicted under legal processes, that are fair, prompt and certain."

Unfortunately, this is not always the case under current law. As the Gun Control Act now stands, second or subsequent offenders who are convicted of the offenses of carrying unlawfully or using a firearm in the commission of a Federal crime are subject to a mandatory minimum of two years imprisonment and a maximum of twenty-five years imprisonment. We believe that the Act should be modified so that a mandatory sentencing provision would be applicable to first offenders as well as to recidivists. That is to say, we would propose for

first offenders a mandatory minimum sentence of one year, with a discretionary ten year maximum. The new penalty proposal is intended not to be so harsh as to be counterproductive in terms of acceptability by courts and juries, but to serve as a more formidable deterrent to the misuse of firearms.

Finally, we propose new legislation which would prohibit felons and other classes of dangerous persons from possessing firearms. While existing law, enacted as Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, was intended by the Congress to proscribe mere possession, receipt, and transportation of firearms by such persons, this law was construed by the Supreme Court on December 20, 1971, in a five to two decision in *United States v. Bass* to require proof of an interstate commerce nexus with respect to these offenses. We believe that a valid finding can be made by Congress that the possession of weapons by such persons itself poses a threat to interstate commerce, and thus that a commerce nexus need not be proved as to each violation. Accordingly, the Administration proposes to amend the statute to this effect.

Additionally, we propose to repeal existing Title VII and place the substance of its provisions, together with needed corrective amendments, within chapter 44 of Title 18, United States Code (Title I of the Gun Control Act of 1968). This chapter, of course, contains all other provisions of Federal law relative to the shipment, transportation, and receipt of firearms by felons and other proscribed categories of persons. The categories of persons who are prohibited by chapter 44 from shipping, transporting, or receiving firearms in interstate commerce and to whom Federal firearms licenses may not lawfully sell firearms are not in conformity with the proscribed categories of persons under Title VII. Therefore we propose to make these categories more closely conform.

Our proposals, Mr. Chairman, are addressed primarily to the question of interstate traffic in firearms and particularly handguns. We think it desirable and intend to preserve local control over firearms regulation. Our studies have convinced us, however, that an interstate traffic exists with respect to guns used in crimes which deserves more Federal attention than it has received, and that this traffic must be more effectively controlled at the Federal level if State regulation and enforcement efforts are to be effective.

By way of conclusion I wish to emphasize that these proposals will not cure the Nation's violent crime problem. The depth of that problem, in our opinion, is too great to be plumbed by legislative solutions alone. The legislative program proposed here is one that recognizes the limitations upon the value of passing a law contrary to substantial popular sentiment, a practice that in the past has only served to undermine respect for our institutions.

We appreciate your having provided us with an opportunity to appear here today and to present our views on the subject of firearms control. At this point, my associates and I would be glad to attempt to answer any questions which the Subcommittee may have.

TESTIMONY OF DAVID R. MACDONALD, DIRECTOR FOR ENFORCEMENT, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY JAMES CLAWSON, DEPUTY ASSISTANT SECRETARY FOR OPERATIONS; JAMES FEATHERSTONE, DEPUTY ASSISTANT SECRETARY FOR ENFORCEMENT; REX D. DAVIS, DIRECTOR OF THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS; AND MARVIN J. DESSLER, CHIEF COUNSEL OF THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Mr. MACDONALD. Thank you, Mr. Chairman. With me today are James B. Clawson, Deputy Assistant Secretary for Operations on my far right; James J. Featherstone, Deputy Assistant Secretary for Enforcement on my immediate right; Rex Davis, Director of the Bureau of Alcohol, Tobacco, and Firearms on my immediate left;

and Marvin J. Dessler, Chief Counsel of the Bureau of Alcohol, Tobacco, and Firearms on my far right.

As you know, in his recent congressional message on crime, the President emphasized the need for more effective firearms legislation and enumerated specific areas wherein the need for remedial legislation is most urgent.

As the President has indicated, the increase in violent crime in America has grown to such proportions as to become a matter of foremost concern in the minds of most law-abiding citizens. This last year has seen an 18 percent increase in crime. On the one hand, the President feels that legislation in this area is not invariably a royal road to the moral goal of a nonviolent society. However, even though many people in this country feel that any legislation in this area is a pernicious invasion of their rights, some imaginative legislation should be tried which may bend us away from our headlong rush to increased violent crime. We all must determine how far legal processes are adapted to accomplish the objective of reduction in firearms violence that all of us seek to secure. Legislation in the area of firearms control, as elsewhere, must be a wise blend of accepted principle and courageous experiment.

In this respect, Mr. Chairman, I would like to compliment you, Mr. McClory and the committee for the truly openminded spirit in which this committee has held hearings over the last several months on this most difficult and controversial subject. The light generated by your hearings has substantially exceeded the heat.

It is undisputed that the easy availability of firearms, especially handguns, does contribute to the frequency of violent crimes, particularly between family members and friends. Furthermore, the Treasury Department has observed that the staggering increase in crime that has occurred in recent years has also engendered a "race to arms" on the part of frightened citizens that all too frequently results in tragic consequences.

Accordingly, the proposed legislation contains a number of diverse but interrelated provisions which are intended to effectuate a single objective, to restrict and deter the misuse of firearms.

In furtherance of this goal and in specific response to the President's objectives as expressed in his June 19, 1975, crime message, the proposed legislation includes provisions addressing the following critical areas:

(1) The need for sufficient licensing standards to insure that Federal licenses will only be issued to responsible, law-abiding persons who actually intend to conduct a bona fide business;

(2) The need for more comprehensive controls upon the sale of handguns by Federal licensees in order to reduce the number of handguns sold to individuals in violation of Federal, State and local laws;

(3) The need for controls upon the importation of parts for and the domestic manufacture and assembly and sale of small, lightweight, easily concealable, and inexpensive handguns commonly known as "Saturday night specials";

(4) The need for an effective statutory means to prosecute and punish felons and other dangerous persons for the possession of firearms;

(5) The need for a mandatory sentencing provision that will apply, not only to recidivists, but also to first offenders who carry or use a firearm in the commission of a Federal felony;

(6) The need for effective controls upon the multiple sale and purchase of handguns; and

(7) The need for statutory provisions prohibiting the sale or transfer of firearms, especially handguns, by nonlicensees to persons who are prohibited from purchasing, receiving, or possessing such firearm by Federal, State, or local law.

My formal statement submitted for the record deals with the administration's proposals to attack crime related to interstate traffic in firearms.

In our view, this is a moderate approach. Some may see it as too restrictive and others as too weak. But the fact remains that these initiatives avoid the extreme of either national gun confiscation or registration on the one hand or the specter of doing nothing in the face of compelling evidence pointing to action on the other.

By definition then this is a temperate proposal aimed at preserving local control over firearms regulations while still attacking crimes related to firearms in this country. We are convinced that an interstate traffic exists with respect to guns used in crimes which deserves more Federal attention than it has received and that this traffic must be more effectively controlled at the Federal level if State regulation and enforcement efforts are to be effective.

By way of conclusion, I wish to emphasize that these proposals will not cure the nation's violent crime problem. The depth of that problem in our opinion is too great to be plumbed by legislative solutions alone. The legislative program proposed here is one that recognizes the limitations upon the value of passing a law contrary to substantial popular sentiment; a practice that in the past has only served to undermine respect for our institutions.

We appreciate your having provided us with an opportunity to appear here today and present our views on the subject of firearms control. At this point, my associates and I would be glad to attempt to answer any questions which the subcommittee may have.

Mr. CONYERS. Thank you very much, Mr. Macdonald. We appreciate your testimony and are encouraged by your reaffirmation of the principle that I think is implicit in the objective of many Members of the Congress, that the increasing numbers of handguns must somehow be rolled back and that your objectives seek that end and so do ours.

I am particularly interested in an attempt to develop a program of education that would be concomitant to the licensing of anyone who sought to purchase a handgun, and we are presently working on such a proposal. It seems to me that it ought to be tied in with the right of a person to purchase and own a handgun. It might help to reduce the number of accidents, which represent a large part of the gun homicides taking place every year in the United States. Could you or Mr. Davis talk with us a little bit about an education program?

Mr. MACDONALD. Go ahead.

Mr. DAVIS. Well, Mr. Chairman, we certainly agree that education of the gun owner, of the private gun owner, is certainly a desirable

end. As I advised the committee in my last appearance here, we have undertaken an educational program directed at the private owners of guns and gun dealers in order to impress upon them their responsibilities in the safe and secure storage of firearms in their possession. There have been proposals advanced, for example, that the education in terms of safety of owners of firearms could be conducted by some organization outside of the Government, such as the National Rifle Association. And I think in fact that organization has indicated a willingness to participate in this kind of an educational program. Beyond that, I think probably there are other areas that could be carried on by the Government itself in terms of educating owners of firearms as to their individual responsibilities.

Mr. CONYERS. Well, of course, the problem arises as to how this would be handled on a national level by a private organization. That might pose some kind of a problem. Of course, I think we are all encouraged by the National Rifle Association for their aim to improve and increase the firearms education component for their organization. And I suppose they may run programs even for interested citizens who are nonmembers in some parts of the country. But what I am imagining, gentlemen, is a program that would have more official sanction, that would be legally a prerequisite to gun ownership, that would not turn on a private organization or voluntary activity.

Mr. DAVIS. Yes sir. I think if you made it a mandatory requirement for the acquisition of a handgun, for example, that probably a private organization could not fulfill the role and that more than likely there would have to be an official availability of that kind of an educational program.

Mr. CONYERS. Well, I would ask that you give some attention to this idea because I regard it as very important and ought to be included in any legislation.

Mr. DAVIS. We will.

Mr. CONYERS. Thank you. Let me ask you now about your reaction to the notion of a Federal tracing center that would centralize firearms records and provide the capability for law enforcement agencies to identify, far more easily than is presently done, weapons used in the commission of crimes or weapons that are confiscated by the police in the course of their duties. The tracing center might require some identification as to the last registered firearms owner. Do you see any usefulness that could come out of a national handgun tracing center?

Mr. MACDONALD. Well to the extent that that means registration in a central place of firearms, I believe that the President has made himself clear on that point. As it is now, the percentage of successful traces of the Alcohol, Tobacco, and Firearms Bureau is essentially high with respect to at least domestic weapons. I'm personally not sure that it would be raised materially by attempting to somehow centralize records of handgun ownership.

Mr. CONYERS. Of course we have had a lot of instances where the tracing capability has run into difficulty. We have had some successful cases that have been brought to our attention. But we know, for example, that the overwhelming majority of law enforcement agencies do not resort to ATF facilities that are now available. And I

suppose we should be thankful for that. There would be no way in the world you could begin to accommodate requests that went on a national basis for all of those police agencies that do not have that inherent capability themselves.

Mr. MACDONALD. Well I think that the President's budget request, which is not in my statement because it doesn't pertain to the proposed legislation, but the President's budget request for additional ATF agents, in large part for the purpose of increasing tracing capabilities in those metropolitan areas where the crime problem is the most severe, answers this difficulty. We are verging in an area where our assistance and our experience—and correct me if I am wrong, Rex—where our experience indicates that the tighter we proceed with something that looks like registration, the more we intend to encourage an illicit firearms traffic. We have, as I understand it, 100,000 guns that are stolen every year at the present time. It wouldn't surprise me to see that number rise sharply if it were felt that weapons could be traced easily and were subject to some sort of quasi-registration program.

Mr. CONYERS. Well what about the collateral responsibility we all have to insure that this dangerous mechanical weapon is not stolen not only for registration purposes, but for the reason that in criminal channels these weapons are notoriously valuable in that they cannot be identified? So, it would seem that perhaps we ought to look at methods of tightening up the safety requirements, which I think have generally been considered to be fairly loose thus far.

Mr. MACDONALD. Well I think there probably are at least two aspects to that. One is security of a weapon in its owner's possession and the ultimate consumer's possession. And ATF has been engaging in a public education program in that regard to attempt to make gun owners more conscious of the possibility that their weapons are attractive items for burglars. And second, that goes into a sort of cargo control program when it comes to commercial shipments. And ATF is right now actively looking at and I believe has adopted guidelines or regulations regarding cargo security in the shipment of large bulks of weapons, of firearms.

Mr. DAVIS. Yes, that is correct and the results have been quite encouraging in terms of the decreased incidents of these from interstate shipments. Mr. Chairman if I could, I would like to say that even with present procedures and without the centralization of records, that might be a considered factor of registration. It is possible for ATF to make the recovery of information regarding firearms, regarding handguns used in crime faster and more effectively. Given the computer capability to handle about 2,400,000 guns a year, we could require that information from the manufacturers and distributors. So that in other words we could do the same thing that we are doing now essentially, but much more rapidly and probably more accurately.

Mr. CONYERS. Well of course those regulations, those are voluntary at this point, are they not?

Mr. DAVIS. Interstate shipment; the response has been very encouraging.

Mr. CONYERS. Right. I am sure they have, but I think that just serves to make more clear the fact that we should not let a tracing

center and its appropriateness turn on whether or not there are weapons now being stolen because people would not want to register them. I think we have to tighten up the cargo carriers' regulations on this as well as the gun dealers', many of whom, as you have told me, really don't have the benefit of a regular check from your agency for the principal reason that you have manpower problems and you have many other legal responsibilities. So I think we ought to do both. Certainly in terms of aiding the local law enforcement agencies, a tracing center of this sort could probably be very important. I would urge that you give it some very definite consideration.

How do you feel about amending the provisions that allow imported parts for inexpensive handguns to come into this country and be legally assembled and sold? Are you for eliminating that part of the law or changing it?

Mr. MACDONALD. Yes, the administration's law would effectuate that result as far as the Saturday night special is concerned as defined in the law.

Mr. CONYERS. And in terms of increasing your resources within ATF to work particularly on the firearms enforcement problem, I suppose there is no question that you could stand much more support than even the recent transfer or addition of some 500 people that has occurred within your agency?

Mr. MACDONALD. I suppose that is true, Mr. Chairman. Conceptually, you have a problem here, which is quite extensive, and has traditionally been handled at the State and local levels. And the question really is how far should the Federal Government begin to move into these areas that were formerly occupied by State and local enforcement agencies. If we really wanted a Federal police force, I'm sure that we could address ourselves to a lot of firearms problems that we are not now addressing ourselves to. We would, however, like to preserve the concept of federalism in this area.

Mr. CONYERS. No, but in the case of your own responsibilities, we have had dealers testify and it is commonplace knowledge that ATF has not been able to conduct compliance inspections after the initial application inspection.

Mr. MACDONALD. Oh, absolutely, and that is—

Mr. CONYERS. I don't know if you are going to be able to merely identify more problems by 500 men. I was informed in one of your regions that you are losing 70 men in effectuating this transfer. They are ending up with a net loss of—

Mr. MACDONALD. Is that the Southeast Region?

Mr. CONYERS. That is the one.

Mr. MACDONALD. Well that region has a heavy concentration of agents because historically that is where all the illicit stills were. And ATF has been engaged in a study program of relocating those people as the illicit still problem declines and as the firearms problem increases. So they have been engaged in a study program to retransfer those people over to other areas where firearms are more of a problem than illicit whiskey is of a problem. But I think the fact that they are losing 70 people or thereabouts, and I'm not saying that is exactly right, but it is a plan operationally which I think will be beneficial to the public.

Mr. CONYERS. The point I am working toward is that many of your responsibilities with regard to firearms go unattended without talking about even encroaching upon State or local activities, Mr. MacDonald. And many other regulations probably are not realistically being administered because it is clear that there is no manpower capability to enforce them. Isn't that a reasonable description?

Mr. MACDONALD. Well that is a cause. There is no question that we are not examining firearms dealers the way we would like to examine them. And that is a cause of the recommendations of the administration to decrease the population of firearms dealers in order to bring them more into a size which does enable us to audit and supervise their activities. That is correct.

Mr. CONYERS. Let me ask you about the Bureau of Alcohol's budget. We would like to determine what the facts and figures are in that regard. I hope you just happen to have brought it along with you?

Mr. MACDONALD. The budget as presented to Congress for fiscal year 1976 is \$101,339,000 and I just learned from OMB this morning that they are expediting a supplemental request involving these 500 agents plus I believe 205 support personnel to Congress to finance that increase.

Mr. CONYERS. As opposed to what your request was?

Mr. MACDONALD. Excuse me?

Mr. CONYERS. As opposed to what you asked for in the previous year? I mean what I would like to do is get a picture of the financial background of this issue so that we could examine the budget of ATF for the last 3 fiscal years.

Mr. MACDONALD. Well the budget last year as presented to Congress was \$94,400,000 and Congress cut that budget \$2,400,000 down to \$92 million.

Mr. CONYERS. Did OMB?

Mr. MACDONALD. OMB cut it slightly. The Department of the Treasury also cut it to some degree.

Mr. CONYERS. Yes.

Mr. MACDONALD. But these were not cuts in—but I should hasten to add these were not cuts in existing operations. In every case, the entire budgetary process starts out as a sort of wish list of the Bureau which comes in with a proposal for a number of new programs and agents and what-not. And the Treasury, like every other department, has the obligation to protect the interest of the taxpayer and trim that wish list down to what they think that the Bureau can absorb and to a judicial balance of expansion as required.

Mr. CONYERS. Well of course there have been reported statements that ATF would require as much as \$276 million.

Mr. MACDONALD. If you want a Federal police force, and that is what we are talking about, there are figures in that area. Absolutely, there is no question about it. We are really not ready for that yet. I must say that very frankly.

Mr. CONYERS. Well if we wanted to reduce the traffic in guns, wouldn't we have to increase ATF somewhat?

Mr. MACDONALD. I think I can honestly state in our judgment, and we are dealing with judgmental matters here and nobody really knows

what is going to happen until something is put into force, but in our judgment if too stringent regulations are imposed, there will be an increase in the illicit trafficking in guns which will create a new line of business for the Mafia. Our recommendations are designed philosophically—and I don't hesitate to say that anyone who has a slightly different philosophy can argue one way or the other—but they are designed to tend to blunt what has been a national phenomenon of increasing gun ownership, particularly handgun ownership, that we deplore as much as you do, Mr. Chairman. But without attempting to reverse it, it would do this, without attempting to reduce it instantaneously. Because we feel that an attempt to reverse it instantaneously and run it the other way back with a confiscation program or registration program is going to involve such widespread disregard for the law that it will actually be counterproductive.

Mr. CONYERS. But you are not suggesting that a \$276 million budget would create a Federal police force within ATF? I hope you are not saying that enforcing the existing law would create a counter reaction and create an increasing availability and use of firearms, are you?

Mr. MACDONALD. Availability and use or illicit traffic and misuse? I think I might be suggesting the latter, yes, sir.

Mr. CONYERS. Merely by ATF complying with the existing federal law?

Mr. MACDONALD. No. I guess it depends upon what you construe to be the existing federal law. We feel that ATF has adequately enforced the 1968 Gun Control Act. There may be some areas where arguably they could have been more aggressive and more imaginative, but we feel they have done a workman like job in that area. I'm not exactly sure what area you are referring to that they have failed in.

Mr. CONYERS. Well, as you know, we have gone around the country talking to your regional directors and their staffs, with whom I am fairly impressed, and I refer you to their testimony. And we certainly are not trying to get them in a contradictory position. But, the record has got to show one thing or the other, and the story that comes in between the lines and over the pages from their direct statements is that ATF, without turning into a national police force, needs a lot more resources and fast. And further, there are many activities within the 1968 Gun Act that have not been dealt with. Many regulations have not perhaps been drawn up, which you have the capability and authority to do, because it was patently obvious that there were not near enough people around to do the job.

Mr. Macdonald, I am frankly surprised to find that there is anything amounting to a difference of view between us on this subject because I have been utilizing the information provided to me by people in your own shop which indicates that a lot of things don't get done. I would prefer if, on or off the record, you and I would go through these things seriatim. I think we ought to because I don't want this hearing to reflect anything approaching the position that ATF has been functioning fine in the firearms portion of your responsibilities because I don't think that is the case and I am surprised to hear you say that.

Mr. MACDONALD. Well there are a number of different points that you made, Mr. Chairman. One is that the ATF regional directors feel that they need more funds. I have no doubt that if you went around the country asking the FBI whether they needed more funds, you would get the same answer. Indeed I think you could seriously raise the question as to whether or not the FBI has adequately been addressing itself to the national crime problem in view of its very sharp increase over the last 10 years. So there is always a sort of unending expansion that you could address yourself to that hopefully would somehow decrease the problem in some way. That has to be balanced necessarily against the availability of funds. Although a rich nation, this is not a nation of unlimited resources. But beyond that I would be interested in going over seriatim those areas in which you feel that ATF has not done a job under the 1968 Gun Control Act with its limitations, which we are trying to correct by this proposed legislation.

Mr. CONYERS. I think that is a great idea and I accept it. And for that I reason I suppose counsel may want to raise just a few more questions, but I will conclude for today. Of course, I would like to recognize my colleague from Arkansas also. But for that reason I would like to suggest that our discussion today be abbreviated so that we can prepare some information that we would like you to have in advance.

Mr. MACDONALD. Sure.

Mr. CONYERS. This information will be about the situation as we see it so that at least we can agree on the factual considerations in terms of your agency's resources and personnel restraints.

Mr. MACDONALD. We will do everything we can to respond as soon as we have the information.

Mr. CONYERS. At this time, I would like to yield to my colleague from Arkansas, Mr. Thornton.

Mr. THORNTON. Thank you, Mr. Chairman. I have enjoyed the opportunity of reading your prepared statement and listening to the exchange of views. I would like to pursue one particular area along the line of a subject which another committee on which I served has been inquiring and that is whether any technological equipment, such as computers or other devices, might be useful to your department in better implementation of the 1968 act and whether any increased legislative authority might be required in order to use scientifically available equipment?

Mr. MACDONALD. It is a good question and difficult to answer. We now have had since 1968 what amounts to a record of all sales of firearms in this country, which record reposes in the various firearms dealers that are located throughout the country. As and when those dealers go out of business, they send their records into the headquarters of ATF. The question, I take it you may be referring to is, should this all be brought into one central location?

Mr. THORNTON. Should it be?

Mr. MACDONALD. We have been under so much criticism—and I say that on behalf of the Treasury enforcement agencies—for maintaining a centralized computerized file on individuals that I personally would welcome congressional authority if we are to take that step,

without expressing one way or the other the desire for it, because I think it would be just good for us to have that congressional authority before we centralize that system.

Mr. THORNTON. Part of the President's proposal as I understand it is to provide for a stiff penalty for a person possessing a handgun, who has been convicted of a felony involving the use of a handgun on a previous occasion. Have I stated it correctly?

Mr. MACDONALD. That is the existing law.

Mr. THORNTON. OK. The proposal I think increases the penalty for possession. Do I misunderstand that? Please correct me if I do.

Mr. MACDONALD. The proposal is to have a mandatory sentence for first time violent criminals, for criminals who use a handgun. And I mean this in connection with a Federal felony.

Mr. THORNTON. A Federal felony?

Mr. MACDONALD. Yes.

Mr. THORNTON. Is there any proposal to make it a Federal felony for a person who has been convicted in a State court of a felony involving the use of a handgun, you know, for that person to be in possession of a handgun as a Federal felony?

Mr. MACDONALD. Mr. Danielson, of course it is, as I think you know, a—

Mr. THORNTON. Excuse me, I'm sorry. I seated myself at the wrong place. I am Ray Thornton. I didn't get the right chair apparently.

Mr. MACDONALD. Excuse me. A convicted felon cannot now own a handgun without the approval of—without the specific and individual approval of ATF. So perhaps there would be a Federal violation in that regard. But there is no proposal in this law relating to making a Federal offense what would otherwise be a State offense just because a handgun was used in connection with the State offense.

Mr. THORNTON. Well that is not really the question I am asking.

Mr. MACDONALD. Oh, OK sir.

Mr. THORNTON. I think we are going to have to deal with it as a hypothetical, as to whether it would be worth considering I mean. And the question is whether it might be appropriate to consider the possession of a handgun by a person who has been convicted and who was a convicted felon under either State or Federal law of a crime involving the use of a handgun, whether it would be appropriate to have the mere possession by such a person make him subject to a severe penalty under Federal law?

Mr. MACDONALD. No, that is a violation of Federal law. There is no mandatory sentence but—

Mr. THORNTON. And that is true whether—

Mr. MACDONALD. Whether the felony is State or Federal.

Mr. THORNTON. That is true whether the felony is State or Federal?

Mr. MACDONALD. Yes sir.

Mr. THORNTON. OK. This gets back to the original question which is the need for a centralized computer retrieval system so that you would be able to determine whether such a violation had occurred by having some centralized bank of information to match against the gun?

Mr. MACDONALD. You mean in order to determine whether he has been convicted of a felony?

Mr. THORNTON. Yes.

Mr. MACDONALD. I believe we have really substantially that capacity now in the FBI computer system and the State INLETS system, substantially. I'm not sure it is completely air tight. I'm not that familiar with it.

Mr. THORNTON. This is the area that I was inquiring about. Well I do appreciate your answers. Thank you Mr. Chairman.

Mr. CONYERS. Thank you very much, Mr. Macdonald.

Mr. Macdonald, I would like for us to work out a reappearance and we would like an opportunity to put together the kinds of analyses that I think you would find quite challenging in terms of your original discussion. And so for that reason, I think I should express my gratitude for your coming over today and probably no later than tomorrow we will be in touch with you and your office and see if there is a new time that we can come back together.

Mr. MACDONALD. Well I am always available at the wishes of this committee sir.

Mr. CONYERS. Well that is very generous of you. I deeply appreciate it. Thank you very much for joining us today. And also thank Mr. Davis and all of your associates.

Mr. MACDONALD. Thank you sir.

Mr. CONYERS. Our next witness is Robert J. Kukla, Esq., author of "Gun Control." Mr. Kukla has clearly evidenced a great concern over the years about this subject and the investigation and examination by this subcommittee. We welcome you before the subcommittee, Mr. Kukla. We have your prepared statement. It will be entered into the record at this point. That will allow you to briefly summarize it and add any comments that you might like.

[The prepared statement of Robert J. Kukla follows:]

PREPARED STATEMENT OF ROBERT J. KUKLA

I believe in the kind of freedom for which America stands, a freedom of individual rights exercised within a context of individual responsibility under the law. I further believe that personal freedom is precisely what the American heritage is all about, and that the Constitution and Bill of Rights are its guarantee.

One of the distinctive characteristics of a free society is the right of every law-abiding citizen of good repute to exercise a broad variety of value judgments, among which are included the decision as to whether or not they desire to own a firearm, including handguns, for any one of a number of traditionally legitimate purposes.

The only kind of gun control laws which are justifiable are those that concern themselves with the improper or criminal use of firearms, as opposed to those affecting the firearms themselves. I am opposed to the latter category of gun laws because of three basic reasons: (1) They do not work against the criminal class, and they constitute an unjustifiable burden on the law-abiding citizen; (2) They are philosophically repugnant to the traditional freedoms upon which this nation was founded two centuries ago; and (3) They contradict the spirit and letter of the U.S. Constitution and Bill of Rights.

I believe that the right to keep-and-bear-arms is a basic right, and that it is an individual right, not one that is collective in nature or limited to any concept of the militia as an organization. Although the Bill of Rights is a fundamental part of our constitutional heritage, there have been very few Supreme Court cases dealing with the Second Amendment and none which can be considered a definitive, or even binding, interpretation today. Moreover, it must be understood that fundamental human rights, including property rights and the right

to an effective means of self-defense, are not created by any constitution or bill of rights, but exist independently of mere man made documents, arising as they do out of the very nature of humanity and natural law. It must never be forgotten that a constitution or bill of rights is not the cause of personal and political freedom, but, rather, the consequence thereof. It is the function of constitutional guarantees to acknowledge and affirm the existence of basic human rights, and to sanctify and enshrine them for the enlightenment of the uninformed.

In general, it is probably fair to state that there are three primary reasons why gun control laws in the United States have consistently failed to work as they were intended; namely: (1) The extreme difficulty of drafting gun legislation on a federal level that will not offend some one of several constitutional safeguards; (2) The nearly insurmountable difficulties attendant the prosecution of many kinds of very common gun law violations due to the legal requirements imposed by the so-called "exclusionary evidence rule"; and (3) The general reluctance of courts to impose significant penalties against persons convicted for gun law violations, thereby very seriously diminishing their potential deterrent effect among the criminally inclined.

Among the difficulties attendant any federal gun legislation are those which arise from the fact, often lost sight of by laymen, that the Federal Government is one of limited and delegated powers derived solely from the specific grants given it by the states, whose creation it is, under the Constitution and Bill of Rights. The Federal Government does not possess police powers, which are reserved to the individual states, and can legislate only through the exercise of its authority over interstate commerce, and its power to tax. Moreover, in exercising its specific powers it must do so within the constraints of the Second, Fifth and Ninth Amendments which, among other things, extend their respective mantles of protection over the right to keep-and-bear-arms, the right to be secure in the possession of personal property, the right to an effective means of self-defense, and the right against self-incrimination.

The historic problems inherent in federal gun legislation can be briefly illustrated by citing two examples where important segments of the National Firearms Act of 1934 were held to be unconstitutional. The first instance related to what was originally regarded by many of its sponsors as the single most significant provision of the Act, namely, a provision that the mere possession of a firearm or ammunition was presumptive evidence that such firearm or ammunition had been transported in interstate commerce. When the U.S. Supreme Court subsequently declared that subsection unconstitutional only a few years after enactment, it effectively emasculated the core of the statute, leaving intact, for all practical purposes, only the requirement that certain kinds of gangster-associated weapons, such as machineguns and sawed-off shot-guns, among others, be registered with the Federal Government under heavy penalty of law for failure to do so. However, in 1968, in the so-called "*Haynes*" case, the U.S. Supreme Court effectively neutralized that statutory provision when it held, in effect, that a timely plea of self-incrimination, under the Fifth Amendment, would constitute a complete defense to a prosecution for failure to register such illegally held firearms.

The second major federal statute, the Federal Firearms Act of 1938, did not fare very much better, albeit for somewhat different reasons. There had never been a single conviction under its major provision in the entire thirty years of its existence.

The problems inherent in the Federal Government's excursions into gun control are comparatively miniscule and insignificant when compared with the obstacles faced by the states in their attempt to regulate the use of firearms under their constitutionally reserved right of the police power. Chief among the impediments in this regard is the exclusionary evidence rule. It is my considered opinion that no other single factor is as responsible for the failure of gun control regulations to function effectively as is the exclusionary evidence rule.

The Fourth Amendment to the Constitution provides that people are to be secure against unreasonable searches and seizures of their persons, papers, houses, and effects. The remedy for the violation of these rights is called the "*exclusionary evidence rule*." Simply stated, the exclusionary evidence rule

provides that reliable evidence of a crime cannot be admitted in court, and cannot be considered by the judge or jury to decide the guilt of the defendant, if a law enforcement officer obtained that evidence by what a court later decides was an unreasonable search and seizure. In effect, the exclusionary evidence rule blocks ascertainment of the truth, causes false verdicts, frees defendants who are clearly guilty, and affords protection only to the guilty.

The exclusionary evidence rule was created by judicial decision of the U.S. Supreme Court in the apparent belief that it would deter unlawful police conduct, unreasonable searches and seizures, by removing the incentive through the exclusion of improperly obtained evidence from court. The rule was first adopted by the U.S. Supreme Court in 1914 to exclude from federal courts evidence improperly obtained by federal agents. It did not then apply to the states. However, in 1961, the year that approximates the beginning of the burgeoning crime rate, the U.S. Supreme Court extended the exclusionary evidence rule to all states.

The particular significance of the exclusionary evidence rule to weapons cases becomes obvious when it is realized that the great bulk of arrests for gun law violations involve defendants who are caught in the act of carrying concealed a handgun on or about their person. As a direct consequence of the application of that rule, the overwhelming majority of those persons easily escape conviction because of minor technical deficiencies involved in the circumstances surrounding their arrests. For example, it is not at all uncommon in the City of Chicago for anywhere from 8,000-to-10,000 persons to be arrested in any recent year for the violation of one or more gun laws, including, among others, the carrying of concealed weapons, failure to register guns in their possession, and failure to possess a state gun owners identification card. However, only a very small fraction of such persons are ever convicted of their offense, usually because the firearms involved are excluded from use as lawful evidence.

Although the exclusionary evidence rule was conceived out of the most laudatory motives, its indiscriminate application over recent years has exacted an incalculable toll from society by suppressing the truth in criminal trials, freeing obviously guilty criminals, destroying respect for law and the courts, and generally undermining the effectiveness of the criminal justice system. It has also produced a loud clamor for yet additional and far more stringent gun laws from among those persons who do not as yet comprehend the nature of the problem.

Fortunately, an eminently suitable alternative to the exclusionary evidence rule can be achieved merely by the enactment of a law which abolishes the exclusionary evidence rule and substitutes in its place the right of a civil action for ordinary damages, plus attorney's fees, for unlawful searches and seizures, and providing for punitive damages and criminal prosecution, where applicable, against any officers guilty of malicious, fraudulent, or oppressive conduct. In this way, a remedy is provided to innocent victims, while enabling the courts to return to the emphasis of truth-finding in criminal trials.

The final barrier to effective regulation of the illegal use of firearms arises out of the extraordinary reluctance of courts to impose meaningful penalties even in those comparatively few cases where solid convictions for criminal acts have been obtained. This general phenomenon is clearly reflected by the experience of the three major states of Illinois, New York and California.

In 1935, Illinois had a population of approximately 8,000,000 people, and there were some 16,000 convicts committed to the state penitentiary system. This year, 1975, with a population that has increased to 11,500,000 people, Illinois now has some 6,000 convicts assigned to the Department of Corrections, a decrease of some 10,000 convicts, and, of those, half are out of jail on parole, probation, supervision, furloughs, and work release programs. During the seven year period from 1968 (when the Illinois firearms license law, and the Chicago gun registration ordinance took effect) through 1974, serious crimes in Illinois increased by 52%, while prison sentences dropped 26%, and the number of inmates in the penitentiary system decreased by 22%.

The typical scenario of the Chicago gun court's failure to function effectively was outlined by the Chicago Crime Commission in the following case history:

"In 1969 the defendant was sentenced to one year in the House of Corrections for theft (reduced from burglary charges).

"In 1970, 1971, 1972, and 1974 he was arrested for unlawful use of a weapon and freed without a trial.

"Then in August of this (1974) a Cook County grand jury indicted him for murder.

It is appropriate at this point to briefly comment on the myth currently being advanced by certain proponents of gun control that the great majority of murder victims are killed by persons with whom they are acquainted, or to whom they are related in some social sense. This misleading contention is apparently intended to convey the impression to the American public that their mere possession of a firearm, particularly a handgun, increases the likelihood that they, or some member of their family or circle of friends will be the victim of its use in a moment of uncontrollable passion or outrage. Such an assumption is false and unsupported by the known facts, except as among those persons who customarily maintain a close or intimate association with individuals possessing psychopathic and/or established criminal tendencies. For example, an analysis of the 970 murders committed in Chicago during 1974 revealed that 61% of the known murderers had a prior criminal record, and 45% of all murder victims had a prior criminal record.

The Chicago experience confirms the 1964 findings of the Senate Judiciary Subcommittee following its special study of the backgrounds of murderers from the 120 major population centers of the United States. The latter study of firearms homicides disclosed that 80% of those who used a gun had a prior criminal record; that 78% of all murders studied had criminal records; that the gun killer had an average of six prior arrests before his first murder; and that 60% of the gun killers had been arrested for a crime of violence before the murder indictment.

Clearly, society's murderers are not the average hard working, tax paying, law-abiding citizen. In those instances where they are described as being acquainted with, or socially related to their victims, then it is primarily in the sense that drug addicts are acquainted with their drug pushers, that habitual gamblers are acquainted with their loan sharks, that thieves and burglars are acquainted with their fences, that prostitutes are acquainted with their procurers and clientele, that adulterers are related to their spouses and are acquainted with their paramours, that deranged persons are related to their immediate family, and that various kinds of drunkards, perverts and petty hoodlums are acquainted with their usual companions.

It is an undisputed fact that New York City has the most stringent statutory sanctions against the illegal possession of handguns anywhere in the nation. In light of this circumstance, the results of a recent survey by the New York City Police Department of the court disposition of cases where individuals were arrested under the Sullivan Law for illegal possession of handguns is extremely enlightening.

There were two studies undertaken. The first covered the latter part of 1972, and the second covered the first half of 1973. The analysis of the results of these studies focused only on those cases in the surveys which had resulted in convictions. The object of the studies was to determine whether or not the sentences imposed bore any meaningful relationship to the severity of the crimes committed.

In the first survey, there were 164 cases involving the arrest of 208 individuals. No cases involving juveniles under the age of 16 were selected for purposes of the survey. The local criminal courts processed 138 of these defendants, of which 121 cases resulted in a final disposition. Of these 121 cases, 69 (57%) resulted in a conviction, however, only 11 (15%) of these 69 defendants who were convicted received a sentence involving any incarceration. Approximately 85% of the defendants received no prison sentence. The majority of the defendants convicted received only a fine. In those cases where a Grand Jury handed down indictments, 37 resulted in conviction, however, only 4 (10%) of the 37 received any prison sentence.

In the second survey, 342 defendants were chosen for study. A total of 120 (35%) defendants were convicted in the local criminal courts with the result that only 16 (13%) received terms of imprisonment. Here, again, approximately 85% of the defendants received no prison sentence at all.

A total of 108 defendants were indicted by a Grand Jury and 62 (57%) of these individuals were convicted. Of the 62 convictions, only 13 (21%) received terms of imprisonment.

These studies revealed an appalling pattern with respect to gun crimes which speaks for itself. The fact is, as clearly demonstrated by these surveys, that very few defendants received jail sentences even though in every one of these cases the defendants could have received a sentence of up to seven years in the penitentiary.

Subsequent to the survey of the New York City Police Department, a public commission, disturbed by the results, undertook an independent study. The commission scrutinized the sentencing practices in felony gun cases in Kings County during the period of March, 1973. It was determined from court records that there were 90 cases where defendants were sentenced on the felony charge of illegal possession of a loaded handgun. In only 4 (4%) cases were sentences of 1 year or more imposed. There were only 8 (9%) cases where terms of imprisonment were imposed for a year or less. However, the vast majority of these cases, 78 (87%) resulted in non-custodial sentences such as fines, probation, unconditional and conditional discharges.

It has been exactly this kind of sentencing practices that also prompted the FBI to conduct its own study with regard to the kind of person typically involved in the murder of police officers. According to FBI records, there were a total of 1,084 offenders identified in connection with the killing of 786 law enforcement officers over the ten year period from 1963 to 1972. Of that number, 825 had records of prior criminal arrests; 641 of that number had been convicted of those prior offenses, and 391 of those who were convicted received leniency in the form of parole or probation. More incredible yet, fully 178 of those police killers were actually out of jail on either parole or probation at the very moment that they killed a police officer.

An extraordinarily similar pattern of the judiciary's widespread preference for probation instead of prison sentences was also found to exist in California by the 1973 Governor's Select Committee on Law Enforcement Problems. The committee found that this policy had almost totally eliminated the deterrent effect of prison by reducing the rate of prison sentences so that less than one out of fourteen defendants convicted of crimes punishable by prison are sent to prison.

In 1971, out of the 56,000 defendants who were finally convicted in superior court of the state of California, fewer than 10% were sentenced to prison, compared to 70% that were granted probation. The prison commitment figure of less than 10% takes on additional significance in light of the fact that 78% of the defendants had prior criminal records and 35% of them were already on parole or probation or in an institution. From 1960 through 1971, the crime rate in California increased by 122%, while prison sentences decreased by 59%. Of those persons charged with FBI index crimes in 1960, 24% of those convicted were sentenced to prison, as compared to only 7% during 1971.

The sale of heroin is a felony in California, punishable by five years to life in prison, but imprisonment is frequently avoided by probation. In 1971, of all defendants convicted of selling opiates, only 18% were sentenced to prison, with 34% committed to a Rehabilitation Center, while 32% were granted probation with minimal jail time, and 12% were granted straight probation or no penalty whatsoever. Moreover, 22% of those convicted had a prior prison record. More shocking yet is the fact that over 41% of the defendants were already on parole or probation at the time they were arrested for their current offense.

Similarly, possession of heroin is also a felony in California, but only 8% of all defendants convicted of possession of opiates in 1971 were actually sentenced to prison.

The extraordinary extent to which California courts have repudiated prison sentences as punishment, in preference for awarding probation, is graphically illustrated by the following table disclosing the percentage of defendants who were granted probation *again* after the conviction of a felony in 1971 while they were *already* on probation for a *previous* offense:

	Probation granted again (percent)	Convicted offense—Continued	Probation granted again (percent)
Convicted offense:		Convicted offense—Continued	
Robbery.....	33	Rape.....	29
Assault.....	68	Sale of opiates.....	34
Burglary.....	57	Sale of dangerous drugs.....	67
Theft (nonauto).....	68	Sale of marijuana.....	73
Car theft.....	63		

Gun control, as that term is commonly used today, constitutes nothing more than a monumental hoax and a fraud upon the American public. Although gun control proposals pretend to be directed towards the laudatory objective of reducing the incidence of violent crime, they tend in fact to aggravate the very conditions fostering crime by diverting attention away from the dismal failure of the criminal justice system to adequately cope with criminality. As a society, we simply have failed to provide for an efficient means whereby criminals can be apprehended, speedily prosecuted, reliably convicted, jailed and kept in jail. In turn, that failure, or lack of resolve, to treat crime and the people who commit criminal acts for what they really are, stems primarily from a philosophical repudiation of, and retreat from the traditional American concept of an egalitarian social order based upon individual freedom exercised within a context of individual responsibility.

During the past decade we have witnessed the emergence of numerous apologists for criminality who have rejected the concept of personal responsibility for individual acts of crime, and who have attempted with alarming success to popularize and establish in its place the alien theory of collective or communal guilt for alleged societal defects. Among the fruits of this philosophy is a system of procedural rules and evidentiary requirements so technical in nature, and so convoluted in practice as to virtually assure the substantial reduction of effectiveness in the control of criminals. It has produced a system so warped by the liberalization of penal, parole and probation procedures that hardened criminals, contemptuous of "law and order", are continually being turned loose back into an unsuspecting society where they are again free to prey on their innocent victims.

Gun control proposals are based on the faulty assumption that the increased purchase of firearms in recent years constitutes, in and of itself, a basic cause of crime, when it would be far more rational to conclude that the sale of guns is, to a significant degree, merely an effect of the public's fear of rising crime. Such a conclusion was suggested by the National Commission on the Causes and Prevention of Violence in its Report of the Task Force on Firearms, which stated: "... increases in the crime rate occur for reasons unrelated to home firearms possession, and it is certainly possible that the crime rate may indeed be a cause of the increase in firearms ownership." The public has understandably become increasingly alarmed and apprehensive over what it perceives as the open and notorious contempt shown by lawless elements not only towards the law, but towards the police and even the courts, all of which contributes towards the determination of law-abiding citizens to restore to themselves the means of doing that which they fear government either can no longer, or will no longer do for them, namely, protect the safety and lives of their families, as well as their property.

America does not have a "gun problem", and gun control does not equal crime control. We have a crime problem, but for those who take the trouble to examine the facts and are both psychologically and politically free to interpret them fairly and objectively, it is abundantly clear that the problem with crime has nothing whatsoever to do with guns but, rather, lies squarely upon the manner in which criminals are regarded and treated by the institutions upon which society must rely for law enforcement and the administration of justice.

America does not need any more gun control laws. Improved law enforcement and the reduction of crime can and must be achieved without either developing an oppressive state, or curtailing basic and essential liberties. Effective law enforcement guarantees individual freedom; it does not restrict it.

What America desperately does need is the immediate restoration of the judicial system to its proper constitutional role, namely, the ascertainment of truth and the application of the law to that truth. Those practices which contribute to court delay, or which abuse legal technicalities and thereby encourage law breaking must be eliminated and replaced with an effective mechanism to assure fair, speedy, and certain administration of criminal justice. Finally, the correctional process must be reformed so as to insure that those persons who violate the privilege of parole or probation are held strictly accountable and immediately returned to imprisonment.

Mr. CONYERS. You may proceed.

TESTIMONY OF ROBERT J. KUKLA, ESQUIRE, AUTHOR, GUN CONTROL

Mr. KUKLA. Thank you, Mr. Chairman. I appreciate the opportunity of being here today. Actually, my prepared statement arrived somewhat late. I don't know that you have had an opportunity as of yet to acquaint yourself with it. However, in the interest of time, rather than reading it, or a substantial portion of it, I will attempt to comply with the Chair's request for what essentially will be a summary of the central position. I should preface my remarks, however, by stating that I believe in the kind of freedom for which America stands, that is, a freedom of individual rights exercised in the context of individual responsibility under the law. I believe that individual personal freedom is what the American heritage is all about and that the Constitution and Bill of Rights are its guarantee. I further believe that one of the distinctive characteristics of a free society is the right of every law-abiding citizen of good repute to exercise a broad variety of value judgments, among which are included the decision as to whether or not they desire to own a firearm, including handguns, for any one of a number of traditionally legitimate purposes.

It has been frequently stated, and I am sure this committee has heard it, that there are presently 20,000 gun control laws on the statute books of this country. It is my opinion that all they really require is more stringent enforcement, rather than supplementary laws. I believe that the only gun laws which are justifiable are those that concern themselves with the improper or criminal misuse of firearms as opposed to those affecting the firearms themselves. I oppose the latter category of gun laws because of three basic reasons: (1) They do not work against the criminal class and they represent an unjustifiable intrusion and burden upon law-abiding citizens; and, (2) they contradict the spirit and letter of the Federal and State bills of rights; and, (3) they are philosophically repugnant to the traditional freedoms upon which this Nation was founded.

I believe it is fair to say that gun control, in the sense that that term is commonly used today, constitutes nothing more than a monumental hoax and a fraud upon the American people whose attention is thereby diverted away from the dismal failure of the criminal justice system to adequately cope with criminality. On the other hand, rampant criminality is a predictable product of a misguided social philosophy that has repudiated the ancient concept of individual responsibility for individual criminal acts. Among the fruits of this philosophy is a system of procedural rules and evidentiary requirements so technical in nature, so convoluted in practice, as to virtually assure a breakdown in the process of effective law enforcement.

FBI Director Clarence Kelley has stated that two-thirds of all crimes in this country are committed by criminals that make a living at it. He cited as among the opportunities for undeserved freedom of criminals such things as the current bail procedure, which often treats hardcore criminals the same as first-time offenders; the use of concurrent prison sentences; the unreasonable use of plea

bargaining; and the misguided use of parole and probation. During the last 10 years, 77 percent of the killers of some 858 law enforcement officers had previous criminal records. Anywhere from 25 to 33 percent of those persons killing police officers were out of jail on parole and probation at the very moment they killed those officers.

I believe that better law enforcement and the reduction of crime can and must be achieved without developing a police state or curtailing essential civil liberties. I do not believe that freedom is advanced when criminals can roam the streets at will while law-abiding citizenry must fearfully hide behind locked doors. I believe that in order to provide a meaningful impact on crime our society must reassert its emphasis on individual responsibility for human conduct and require each person to obey the legitimate rules that society has established for its members. When there is refusal to obey the laws, swift, certain, and fair punishment must be the consistent and constant consequence, and the correctional process must insure that those who violate the privilege of probation or parole are held accountable and are returned to imprisonment. I believe that the judicial system must be restored to its proper constitutional role, namely, the ascertainment of truth and the application of the law to that truth. Those practices which contribute to court delays, abuse legal technicalities, and encourage the breaking of the law must be eliminated and be replaced with effective means of assuring fair, prompt, and certain justice.

I would recommend for the consideration of either this committee, or any other committee that concerns itself with the rampant increase in crime, that the exclusionary evidence rule should be either eliminated or drastically modified. I believe that the courts could and should adopt a specially accelerated calendar for the trial of persons accused of violent crime. I believe that court continuances and plea bargaining must be modified in their use. I believe that penalties for violent crimes should be mandatory and non-concurrent, and definitely that the system of parole and probation and furloughs should be significantly tightened.

I will conclude my remarks at this moment by commenting on the concept about which this committee has heard most frequently perhaps in its deliberations, namely, the issue concerning the Saturday night special and all such similar proposals. I believe that those proposals that have come to my attention contain a conceptual flaw, namely, an artificial class distinction related in most instances to a price tag criterion that plainly and blatantly discriminates against poor people solely on this basis of their income and social position. Ironically, it is just such individuals that often live within high crime areas and therefore feel the need to provide themselves some kind of last resort personal protection when the police are unable to come to their aid.

Mr. Chairman, I will be pleased to respond to any questions either yourself, Mr. Thornton, or your counsel may have.

Mr. CONYERS. Thank you very much. I appreciate your testimony and your concern for those poor people who presumably live in ghettos and from your point of view need to buy and own guns. I would yield to Mr. Thornton for any questions he might have.

Mr. THORNTON. Thank you Mr. Chairman. I noted in your testimony that you took apparently some exception to the observation, which is frequently made, that most crimes of violence, murder, et cetera, occur within a family group or a group of close acquaintances and you list a number of acquaintanceship criteria that you say are necessary to make that statement. It has been my understanding on the basis of what I thought to be good information, that crimes of violence did occur within family units or within the neighborhood. Do you contradict that or do you say that there has to be other factors present?

Mr. KUKLA. I would say it is my position that the statement in itself is misleading. It is true only insofar as everyone in society, even the most hardened criminal, has relatives and has friends and associates and confederates, and it is often among exactly such persons that crimes of violence, including murder, occur. We have had a series of syndicate killings in the city of Chicago. They are now in excess of 1,000. Each of these individuals undoubtedly was killed by an acquaintance and oftentimes probably by someone with whom he was associated socially or through family connections. So, that statement is technically correct, but it is misleading.

I believe it has been advanced by persons who are primarily interested in conveying the impression to the general public that the likelihood of them being a victim of a gun was related in some way to their mere physical possession of a gun. In other words, the statement, while technically true, is grossly misleading in its implication. Now, the Chicago Police Department conducted a study and released the figures about 4 weeks ago with respect to 970 murders which took place in that city during the year 1974. According to the Chicago Police Department figures, 61 percent of those persons who were identified as having committed a murder had prior criminal records, and 45 percent of their victims had prior criminal records. One university sociologist once described the bulk of these individuals as constituting the dregs of society. It is my position that these individuals were already in violation of multitudes of gun laws which have been on the books in some cases for as many 40 years and that they have been permitted to remain free and loose in society to commit their crimes, including murder, due to the fact that those laws were not enforced.

In the State of New York there have been two studies conducted: one by the New York Police Department and another by an independent study commission. They indicated that only an infinitesimally small number of persons who were convicted of New York's very strict Sullivan law were ever actually sentenced to a prison term. The vast majority were freed on technicalities.

Mr. THORNTON. Do you recommend vigorous enforcement of the gun control laws which are presently on the statute books?

Mr. KUKLA. Absolutely. I further believe that in order to facilitate vigorous enforcement it is necessary to modify the present exclusionary evidence rule.

Mr. THORNTON. Yes; you mentioned that in your paper.

Mr. KUKLA. I think that is the keystone of effective law enforcement in this country. The city of Chicago in any given year, in the

past 6 years, has arrested anywhere from 8,000 to 10,000 persons on weapons violations. In most instances, these are persons who have been apprehended while carrying a concealed weapon on or about their person. This is a violation of the 1968 Chicago Registration law, the Concealed Weapons law of the State of Illinois, the Firearms Owners License law of the State of Illinois, and in many instances, depending on the nature of the weapon, it is a violation of one of the Federal statutes. Now, all but an insignificant number of those individuals escaped conviction mostly because of the effects of the exclusionary evidence law and in other cases for matters such as failure to prosecute because of the lack of availability of a police officer or things of that nature. But, the single predominant factor that appears is the exclusionary evidence rule and the fact that the prosecution is unable to introduce into court the fact that the defendant was in possession of an unauthorized weapon, or an unauthorized method of use, in his prosecution.

Mr. THORNTON. Because of some failure to give him proper warning or illegal search or what?

Mr. KUKLA. Illegal search. That is correct.

Now, as a matter of fact, by sheer coincidence, the superintendent of the Chicago Police Department in a press release issued I believe 1 or 2 days ago cited the exclusionary evidence rule as being a significant stumbling block in the effective enforcement of existing Illinois and Chicago laws. The exclusionary evidence rule fortunately lends itself to a modification without doing violence to the civil liberties of the persons for whom it was originally intended to protect. I suggest in its place that a remedy be provided to a victim of police harassment or illegal search in the form of a civil suit for damages, including court costs and attorney fees, and that there be a minimum recoverable award in the case of an inability to prove actual damages. This will provide the individual with redress and at the same time it will permit the courts to take cognizance of any evidence seized by a police officer in the connection with his duties and will affect the prosecution and conviction of that individual, which I think is extremely important.

We can pass as many laws as we wish, but unless and until we are able to get around the exclusionary evidence rule, it is for naught.

Mr. THORNTON. Thank you for your responses and I have no further questions at this time.

Mr. CONYERS. I yield now to the ranking minority member of the subcommittee, Mr. McClory.

Mr. McCLODY. In connection with your position, what is your attitude as far as the 1968 Gun Control Act? Do you support that or do you think we ought to repeal that?

Mr. KUKLA. Well, what in effect it did, it placed each of the 50 States in a separate jurisdictional bottle and forebade generally the interchange of firearms as between private persons and dealers outside of their areas. As you well know, we were told at the particular time, prior to and immediately subsequent to that enactment, that the purpose of that act was to permit each of the States to enforce vigorously the laws within their respective jurisdictions. And, at that time, it was complained by witnesses who appeared before the Con-

gressional committee, that States, such as New York in particular, were being flooded with handguns from out of State in violation of the existing New York State law. And, it was claimed that the 1968 act would somehow permit them to more effectively enforce the law. We have been told here today, and the committee has been told on previous occasions, that the same identical problem still exists which was the rationale and the basis for the enactment of the 1968 law.

Mr. McCLORY. It did prevent the interstate mail order business in guns, I believe, did it not?

Mr. KUKLA. Oh, definitely, it did. I believe it also contributed to the increase in prices and the inconvenience of persons who were thereby deprived of the means of buying equipment at the lowest possible market price. I believe the act has largely been ineffective because it has not been enforced.

Mr. McCLORY. How about an extension of the law affecting machineguns and explosives and things like that that were extended by the 1968 act and which were originally part of a gun control law and firearms law of the 1930's.

Mr. KUKLA. I would have no objection, nor do I express any objection to any control laws with respect to military ordnance devices of that type. They were, as you realize, incorporated in the 1934 national act. They have been retained within the 1968 act. In my opinion, they are proper and should be retained in the future.

Mr. McCLORY. We had rather impressive testimony yesterday from a group of witnesses who felt that gun ownership imposed a substantial responsibility on the gun owner and that programs of education and programs of qualifications for gun ownership and education regarding handling of the gun and the manner of keeping the gun and safeguarding and so forth, was really something that the law-abiding gun owner should be supporting. Do you have any feeling as to whether or not there should be a responsibility imposed on those who own guns?

Mr. KUKLA. A responsibility, yes sir; I believe it is inherent in the ownership of any instrumentality of that type. Imposed? I would say, no. One is voluntary and is the product of intelligence and guidance. The other is authoritarian in nature. I believe it is beyond the capability of Government to achieve in any practical degree.

The National Rifle Association, as you may be aware, has maintained a training program for firearms handling and safety, going back I believe to 1948. It has been primarily concerned with the handling of field guns for hunting purposes. It has been expanded in recent years to include firearms safety training and has for some years also included training for police departments.

Permit me, if I may, to elaborate and to expand on this, Mr. McClory. In your State of Illinois, in 1968, the General Assembly enacted a bill which provides for training in the safe handling of firearms and the safety training of youngsters between the ages of approximately 12 and 18 years of age. It provided that those youngsters be trained through the auspices of the Illinois Department of Conservation. That has been the law since 1968. To my knowledge, not a single youngster has ever been taught any type of safe gun handling pursuant to that piece of legislation. Therein lies my op-

position to a program which would require the mandatory certification of competence pursuant to such a program. If, for example, the issuance of an Illinois firearms license were contingent upon the applicant obtaining certification of competence as the result of having passed through such a course, then not one person would be entitled to such a license.

There are flaws in the system. It is beyond their capability to administer. Similarly, I call your attention to the city of Chicago's police department with a force of approximately 12,500 men. The police department is currently limited to two comparatively small practice ranges. One is in the central police station accommodating perhaps nine officers at one time and one is in Soldier's Field which accommodates perhaps a dozen officers. With such limited facilities the Chicago Police Department is unable to qualify its own police officers in firing more than 30 shots per year, and to contemplate a similar program that would encompass some 40 million adults in this country who own one of several kinds of firearms, I believe is beyond the pale of responsibility.

Mr. McCLORY. So you are against any program, even if it were administered locally and largely on a voluntary basis and even with the cooperation of the NRA?

Mr. KUKLA. No, a voluntary program I think is fine. I think it is badly needed. I have suggested as a matter of fact for many years that the Chicago Police Department, being in my locality of residence, throw open their facilities and make their ranges available to the public and advertise instructional programs for those individuals wishing to avail themselves of them. I think that is an excellent idea. Where I would draw the line is at the compulsory requirement that persons take such a course, whether or not they wish to do so, and tying their satisfactory completion to some certification of competence by the administering agency as a condition precedent to their being able to legally own or possess a firearm.

Mr. McCLORY. You wouldn't care to deal the same way with other dangerous instruments, such as the automobile, would you?

Mr. KUKLA. Congressman, with 55,000 deaths on the highway I'm afraid that our automobile safety instruction programs would not be of much help. We have, however, another incentive by way of reduced insurance premiums for persons who have satisfactorily completed a voluntary automobile driving safety training course within the public school systems. They might indeed be—the public school systems might indeed be the vehicle through which voluntary training of firearms handling could be accommodated. I think that would produce salutary results.

Mr. CONYERS. Mr. Kukla, we thank you very much. Your testimony is going to be carefully considered. I shall read your statement personally. I might even contact you later on about it. I hope you will be available for any questions in writing or off the record that I might wish to raise?

Mr. KUKLA. I shall be pleased to be at your disposal as well as the disposal of the committee.

Mr. CONYERS. Thank you very much. As you can see, we are trying to proceed toward the resolution of a very difficult matter in as unemotional an atmosphere as possible. We have noted that this sub-

ject matter is given to very intense expressions and feelings. And the desire on my part and Mr. McClory's part as well as Mr. Thornton's part and every member of this subcommittee is to begin to reexamine many of the considerations connected with firearms regulation and to formulate some legislation that will not too greatly excite those who would prefer as little as possible. And it is clear that we have a mandate to do something and it is clear that the Congress is looking to this subcommittee to produce some improvements over the existing law, which you point out is in some respects deficient. And we are going to do that. And to the extent that your deep devotion to this subject will help us, we will make every use and availability of your resources and your past work.

Mr. KUKLA. Thank you Mr. Chairman.

Mr. CONYERS. We are grateful for your being here.

Our next witness is the chairperson of the National Coalition to Ban Handguns, Dr. Jack Corbett. Dr. Corbett is a minister and director of the Government relations committee on the board of the United Methodist Church. He has taught political science at American University and he has been headquartered here in Washington and has also been quite interested in the subject matter of this committee. We have your prepared statement that is made on behalf of the National Coalition to Ban Handguns. Without objection that will be entered into the record at this point. You may summarize it and make other additional comments if you choose. We welcome you before the subcommittee.

[The prepared statement of Dr. Jack Corbett follows:]

STATEMENT BY DR. JACK CORBETT

I am Jack Corbett, chairperson of the National Coalition to Ban Handguns. I am appreciative of the opportunity of presenting testimony before the Subcommittee on Crime. I would also like to say that we are very grateful for the responsible and thorough efforts of the Committee, both in Washington and around the country, in trying to assess what handgun control measures should be taken under present circumstances. The NCBH consists of twenty-four religious organizations, citizens' groups, educational associations, professional societies, labor unions and public interest groups deeply concerned over the issue of banning handguns. I have listed the component organizations on a sheet attached to this testimony. The Coalition, through a program of research and education, is seeking to develop national public policies which will eliminate handguns from general private ownership.

The NCBH is greatly concerned that, in 1973, the last year for which complete figures are available, there were some 29,000 firearms deaths in the United States. Of these approximately 13,000 were murders, 13,000 suicides and about 3,000 accidents. The handgun was used in the largest proportion of these deaths. We know, for example, that 53% of the murders occurring in 1973 were by handgun.

Behind the statistics often lies great tragedy:

Children and teachers are being shot in schools.

Depressed persons are taking their lives with a gun left around the house.

Householders purchasing guns to protect their homes often end up using them to kill a loved one.

Police officers are being gunned down in increasing numbers in the course of duty.

(And I might say that in police killings, the weapon most often used is a handgun.)

The handgun is "the most deadly and least utilitarian firearm" in American society. Generally speaking, it is only good for killing people.

The 24 national organizations which are full members of the NCBH intend

to try to do something about the unregulated proliferation of handguns in this shooting gallery called America.

The National Coalition remains unsatisfied with the other four alternatives being suggested as handgun control measures and as effective means for crime deterrence. Standing alone or taken together without any general ban on handgun ownership—these suggestions seem to us to be inadequate. Running from the weakest to the strongest, they are: mandatory minimum sentences, registration, a ban on the sale of Saturday Night Specials, and licensing. That is not to say that we think these proposals will do no good. They will do some good, but not as much as is called for by the current seriousness of the problem.

President Ford has recently proposed "mandatory minimum prison sentences for Federal offenses committed with firearms . . ." One of the real problems here is that in violent or gun-connected crimes very few persons are caught and even fewer are convicted. If, as is the case, only one person is convicted for every 20 violent crimes, how will mandatory minimums act as a deterrent for a risk-taking criminal? Also, *if persons are not generally being convicted of such crimes, how can they be sentenced, let alone be given a mandatory minimum sentence?*

The F.B.I. Uniform Crime Reports of 1973 reflect that out of 204,654 violent crimes reported in the United States, persons found guilty as charged represented approximately 10 percent. However, if the Law Enforcement Administration's Unreported Crime study is correct, the number of reported crimes is about half as many as those which actually occur. Would that not mean, then, that mandatory minimums could be applied in only five percent of the cases of violent crime? Nevertheless, we recognize that mandatory minimums would deter those who are incarcerated.

Another proposal being made which holds modest promise is that of registration. One really wonders why the Gallup Poll has been taking surveys for years on registration since there is so little proof or logic that this could be an effective tool for crime prevention. The National Rifle Association is right here: criminals would not register their guns. Nor is there much hope that they would oblige by leaving their guns at the scene of the crime. The major use of registration would be to attempt to check the source of guns lifted from persons under indictment and also to be able to return stolen guns. But as a crime prevention mechanism there is little reason to believe that registration would be effective. In most crimes of passion, the guilty do not seek to avoid prosecution. In street crimes, it is doubtful if criminals think ahead to the extent that they would hesitate to use a gun that is registered. They don't expect to get caught.

Registration would be primarily useful as a double check on persons who are normally accountable.

Another solution being offered is a ban on the *sale* of Saturday Night Specials. If that ban were broadly defined and also dealt with *possession* then it would have a chance of being productive. Usually "Saturday Night Specials" is a term applied to cheap, inaccurate, and unreliable handguns. The logic of their prohibition might lead some to believe that such advocates prefer that criminals turn to weapons which will not misfire or blow up in their hands, but shoot accurately when pointed at a policeman or shopkeeper. As the subcommittee has noted there were 414,000 such guns sold last year. But if these were outlawed, that would represent *only one percent* of the handguns out there owned by the general public. Therefore, what is so great about dealing with only one percent of the total problem? *A ban on the sale of Saturday Night Specials represents a minor answer to a major problem.*

Perhaps the strongest proposal (other than banning handguns) being offered is that of licensing gun owners. It is logical to presume that if you can screen out those persons who may misuse guns, then fewer gun crimes will occur. Since most criminals buy their guns quite legally over the counter, a licensing procedure should have the virtue of at least forcing such purchasers to depend upon the underworld market.

Nevertheless, licensing as a crime prevention system, has some built-in deficiencies. Not only does it call for a tremendous bureaucracy that could possibly meddle into the private lives of licensees—their drinking habits and their psychiatric history, for example. But also it guarantees little progress in cutting into the major type of gun murder—crimes of passion which repre-

sented 71 percent of all murders' in 1973. Most offenders in crimes of passion have not been convicted of any serious crime previously. Therefore, a licensing system would not succeed in screening out this type of crime. When one knows there are 100,000 gun assaults per year—where persons may be blinded, paralyzed, dismembered or otherwise disabled—one can safely assume that a large proportion of these would also fall into the crimes-of-passion category. Under licensing, too many of such crimes, which though serious are lucky to be reported on page 43, would regretfully continue.

Like registration, licensing is mainly for those already accountable. It could have little effect upon professional criminals using underworld sources for guns nor would it disturb the pattern of those who, in their only crime, shoot and kill in the heat of passion.

That leaves banning handguns. We believe that eliminating handguns in U.S. society with certain reasonable exceptions is the most sensible approach to handgun control today, offering more promise for the reduction of violent crime than any other alternative proposed. We think the country must move in this direction if there is to be a less violent and more civilized society. The Gallup Poll, as of June 5, 1975, reported that 86 percent of the American people living in cities of one million and over favor banning handguns. Since most members of Congress represent such areas, with a reasonable amount of courage and leadership, the House should be able to find it politically feasible to support a ban on handguns.

The exceptions that have been proposed to a prohibition on handguns are sensible: the military, police, security guards, antique gun dealers and pistol clubs where guns are kept on the premises under secure conditions. Such exceptions for accountable persons might well also be safeguarded by a registration and licensing system.

The National Coalition to Ban Handguns is engaging in a national educational campaign in support of eliminating pistols and revolvers from manufacture, sale and ownership by the general public. We can live without them. We expect to distribute literature, hold town meetings, and discuss the issue of banning handguns on radio and television. We are already doing these things.

Our Coalition will, of course, support all efforts of the Congress that move toward removing the most lethal weapon from public hands. At the same time we expect to pursue our goal of eliminating all handguns from U.S. society, with reasonable exceptions.

We urge this Committee and all Members of Congress to take action far beyond piecemeal proposals and unpromising palliatives. The American people deserve more than a minor response to a major problem. Therefore we urge the House of Representatives to back the banning of hand guns from public ownership.

We appreciate the opportunity to appear before this distinguished Committee today.

MEMBERSHIP IN THE NATIONAL COALITION TO BAN HANDGUNS

American Civil Liberties Union.
Americans for Democratic Action.
American Jewish Committee.
Board of Church and Society, United Methodist Church.
B'nai B'rith Women.
Center for Social Action, United Church of Christ.
Church of the Brethren, Washington Office.
Committee for Handgun Control, Inc.
Friends Committee on National Legislation.
National Association of Social Workers.
National Council to Control Handguns.
National Council of Jewish Women, Inc.
National Education Association.
The Program Agency, United Presbyterian Church in the U.S.A.
Union of American Hebrew Congregations.
Unitarian-Universalist Association.
Washington Bureau, National Urban League.
Women's Division, Board of Global Ministries, United Methodist Church.
International Ladies' Garment Workers' Union.
National Alliance for Safer Cities.
National Board of the Young Women's Christian Association of the U.S.A.

Jesuit Conference—Office of Social Ministries.
National Council of Negro Women.
United Synagogue of America.

TESTIMONY OF DR. JACK CORBETT, CHAIRPERSON, NATIONAL COALITION TO BAN HANDGUNS

Dr. CORBETT. Thank you very much, Mr. Chairman. We certainly are appreciative of the opportunity to present our testimony before this committee. I would also like to say that we are very grateful to the committee for the way in which they have shown themselves responsible in attempting to thoroughly look at what needs to be done on the handgun control issue in their trips around the country as well as their hearings held in Washington.

Mr. CONYERS. Thank you.

Dr. CORBETT. The NCBH consists of 24 religious organizations, citizens' groups, educational associations, professional societies, labor unions, and public interest groups deeply concerned over the issue of banning handguns. I have listed the component organizations on a sheet attached to this testimony.

And perhaps you could look at the list on the last sheet so that you could see it consists of a large proportion of religious organizations in the country, both Christian and Jewish. It also includes the American Civil Liberties Union, which has attempted to keep us within the appropriate framework on the civil liberties question. It includes the social workers group; the teachers, that is, National Educational Association; the Urban League; the National Council of Negro Women; the International Lady Garment Workers Union; and so forth. It also includes the National Alliance for Safer Cities, which itself includes 63 national organizations.

The coalition, through a program of research and education, is seeking to develop national public policies which will eliminate handguns from general private ownership.

The next section of my statement I will skip because it has to do with statistics and our concern over the tragic effect on human life behind the statistics.

Surely the handgun is "the most deadly and the last utilitarian firearm" in American society. Generally speaking, it is only good for killing people.

The 24 national organizations which are full members of the NCBH intend to try to do something about the unregulated proliferation of handguns in this shooting gallery called America.

The national coalition remains unsatisfied with the other four alternatives being suggested as handgun control measures and as effective means for crime deterrence. Standing alone or taken together—without any general ban on handgun ownership—these suggestions seem to us to be inadequate. Running from the weakest to the strongest, they are: mandatory minimum sentences, registration, a ban on the sale of Saturday night specials, and licensing. That is not to say that we think these proposals will do no good. They will do some good, but not as much as is called for by the current seriousness of the problem.

President Ford has recently proposed "mandatory minimum prison sentences for Federal offenses committed with firearms." One of the real problems here is that in violent or gun-connected crimes very few persons are caught and even fewer are convicted. If, as is the case, only one person is convicted for every 20 violent crimes, how will mandatory minimums act as a deterrent for a risk-taking criminal? Also, if persons are not generally being convicted of such crimes, how can they be sentenced, let alone be given a mandatory minimum sentence?

Another proposal being made which holds modest promise is that of registration. One really wonders why the Gallup poll has been taking surveys for years on registration since there is so little proof or logic that this could be an effective tool for crime prevention. The National Rifle Association is right here: Criminals would not register their guns. Nor is there much hope that they would oblige by leaving their guns at the scene of the crime. The major use of registration would be to attempt to check the source of guns lifted from persons under indictment and also to be able to return stolen guns which might be of use. But as a crime prevention mechanism there is little reason to believe that registration would be effective.

Registration would be primarily useful as a doublecheck on persons who are normally accountable.

Another solution being offered is a ban on the sale of Saturday night specials. If that ban were broadly defined, and also dealt with possession, then it would have a chance of being productive. Usually "Saturday night specials" is a term applied to cheap, inaccurate, and unreliable handguns. The logic of their prohibition might lead some to believe that such advocates prefer that criminals turn to weapons which will not misfire or blow up in their hands, but shoot accurately when pointed at a policeman or shopkeeper. I hope that is not what is intended. As the subcommittee has noted, there were 414,000 such guns sold last year. But if these were outlawed, that would represent only 1 percent of the handguns out there owned by the general public. Therefore, what can be so great in reality about dealing with only 1 percent of the total problem? A ban on the sale of Saturday night specials represents a minor answer to a major problem.

Perhaps the strongest proposal, other than banning handguns, being offered, is that of licensing gun owners. It is logical to presume that if you can screen out those persons who may misuse guns, then fewer gun crimes will occur. Since most criminals buy their guns quite legally over the counter, a licensing procedure should have the virtue of at least forcing such purchasers to depend upon the underworld market.

Nevertheless, licensing as a crime prevention system, has some built-in deficiencies. Not only does it call for a tremendous bureaucracy that could possibly meddle into the private lives of licensees—their drinking habits and their psychiatric history, for example. But also it guarantees little progress in cutting into the major type of gun murder—crimes of passion which represented 71 percent of all murders in 1973. Most offenders in crimes of passion have not been convicted of any serious crime previously. Therefore, a licensing system would not succeed in screening out such persons from obtaining guns.

Like registration, licensing is mainly for those already accountable. It could have little effect upon professional criminals using underworld sources for guns nor would it disturb the pattern of those who, in their only crime, shoot and kill in the heat of passion.

That leaves banning handguns. We believe that eliminating handguns in the U.S. society with certain reasonable exceptions is the most sensible approach to handgun control today, offering more promise for the reduction of violent crime than any other alternative proposed. We think the country must move in this direction, if not now at some time in the future, if there is to be a less violent and more civilized society.

The exceptions that have been proposed to a prohibition on handguns are sensible: the military, police, security guards, antique gun dealers, and pistol clubs where guns are kept on the premises under secure conditions. Such exceptions for accountable persons might well also be safeguarded by a registration and licensing system.

The National Coalition to Ban Handguns is engaging in a national educational campaign in support of eliminating pistols and revolvers from manufacture, sale, and ownership by the general public. We can live without them. We expect to distribute literature, hold town meetings, and discuss the issue of banning handguns on radio and television. We are already doing these things.

Our coalition will, of course, support all efforts of the Congress that move toward removing the most lethal weapon from public hands. At the same time, we expect to pursue our goal of eliminating all handguns from U.S. society, with reasonable exceptions.

We urge this committee and all Members of Congress to take action far beyond piecemeal proposals and unpromising palliatives. The American people deserve more than a minor response to a major problem. Therefore we urge the House of Representatives to back the banning of handguns from public ownership.

We appreciate the opportunity to appear before this distinguished committee today.

Mr. CONYERS. Thank you very much, Reverend Corbett. Reverend, how many Members in Congress do you imagine will be willing to support the proposition that you bring to the subcommittee today?

Dr. CORBETT. We aren't sure of course. And a lot of Members of Congress are not committing themselves as you know. They are waiting to see which way the wind blows.

Mr. CONYERS. I thought you were pointing up to a higher source.

Dr. CORBETT. But I would expect that at the present time at least one-third or maybe more.

Mr. CONYERS. That is encouraging.

Dr. CORBETT. I would expect that is fairly accurate.

Mr. CONYERS. You are giving testimony to the members of the subcommittee and also the full committee; some members, I am sure, will be surprised, and some will not, to learn of your estimate. Now let me move to—

Dr. CORBETT. Unfortunately, sir, that is lower than the Gallup polls show on a national basis, but it is probably about somewhere in that vicinity.

Mr. CONYERS. Well of course the Gallup poll is common citizens. You don't want to compare a citizens' poll with a congressional poll? I mean those are two different things.

Dr. CORBETT. That is right. In time the Congress will catch up.

Mr. CONYERS. Now realizing the fact that this question to which the subcommittee addresses itself is given to great polarity and emotion, there is something of a tradition and history, a mythology, if you will, about guns and the American psyche. That does have a very strong and persuasive impact upon these discussions and which sometimes makes the presentation of cold dry facts come out a poor second. So that the accepted political technique under these circumstances might well be to move toward incremental improvement. I think we had major firearms legislation in 1934 and again in 1938. We came back with another in 1968. There hasn't been too much help since then, but that was 7 years ago. Would you not agree on behalf of the organization that you represent that there are many things that can be done immediately that would begin to improve the situation and we can, by examining many of these components, begin to make what might be called incremental improvements?

Dr. CORBETT. I would agree with that. Whatever can be done to move in the direction of more effective handgun control we would certainly support. But we think that we have to show some evidence of movement in the direction of banning handguns in possession of the general public. I realize that it is an emotional issue, but it is a very emotional situation for those who are victims of guns as well. And I think sometimes we think in terms only of gun murders, but we don't think about the some 100,000 persons who are victims of assaults with guns every year. They are on page 43 of the newspapers and we just don't even think about them. And so I think as far as emotion is concerned, if we do the right educational job, the American people will begin to know about what the gun is doing tragically to many forgotten people in America.

For instance, I have the figures right here which show that between 1963 and 1973 there were about twice as many gun deaths in the United States as occurred to Americans in the Vietnam war. I think that is just a tragic thing. I wrote an article called "The War Over Here" just a few years ago. You know, the front pages were all full of the Vietnam war, but more people were being killed here in the United States all during that war by guns than Americans were being killed in Vietnam. And we think it is very serious. We are not one-issue persons, but we think the situation is very serious.

Now on the incremental thing, yes, I hope that there will be many steps taken. We are not against the President's program. We just think it is not enough. And if you put a lot of things together, maybe it will be worthwhile. But I would hope instead of just a ban on the sale of Saturday night specials that that could be broadened out and you could get into the possession area because I just don't see the logic of dealing with 414,000 guns and trying to control them when there are 40 million out there, 100 times as many, that you are doing nothing about—well not you, I mean the Congress. So I hope it won't be a 1-percent increment.

Mr. CONYERS. Let us talk about things that could be improved though. Now the educational program that you have already embarked upon organizationally is, of course, very important. It is my view as an individual member of the committee that the government has an overwhelming responsibility in this area. For example, the Law Enforcement Assistance Administration, without too much energy, could help support a number of programs that would educate people with reference to gun usage and care and storage and handling, and do that very easily, and could probably have a great impact on the various private educational programs that are going on. That would be a major improvement, would it not?

Dr. CORBETT. It would be helpful. I think they can come up with a lot of research which needs to be known out there. The poor householder doesn't know, as Mr. Levy said in the other subcommittee on the Senate side a few days ago, that there is four times as much chance that that householder will kill somebody in his own house, his family or a friend, than he will kill an intruder. The householder doesn't realize that. I think that whatever can go out that supports reliable research, that would be great.

Mr. CONYERS. Another part of educating could be in relationship to the possession and sale of firearms, especially handguns, so that there would be some kind of educational program that would not turn on the voluntariness, but would be a prerequisite to gun ownership. Would you not agree that that would be helpful?

Dr. CORBETT. That would also be helpful. Responsible gun ownership of those who still have guns after whatever is done by the Congress, well, I would certainly agree with that. And I appreciate really, to be honest about it, what the National Rifle Association is trying to do here. I am not utterly critical of everything they are doing in the gun field, not at all.

Mr. CONYERS. Well there are so many other areas that have begun to attract my attention in terms of going beyond a 1 percent improvement, that I am sure that we will collectively in the Congress be able to do something. Now if you are talking about an improvement, probably the President's program is a 1 percent improvement over the 1968 gun law. But I think we might be able to do even better than that with a little more understanding of this problem. For example, a prohibition on imported handgun parts that are reassembled into guns here, thus effectively evading the regulations established for imports, could be a very important consideration, could it not? Would the closing of the loopholes in the 1968 act there be—

Dr. CORBETT. That should have been done in 1968 and I would be grateful for that.

Mr. CONYERS. We are very concerned about tightening safety requirements not only among cargo carriers, but among some of the larger dealers in which rather large amounts of weapons are stolen annually in transit and on location. We find that there are very few regulations, if any, mandating safety requirements that could eliminate some of this theft. We are concerned also—

Dr. CORBETT. Sir, could I ask a question about that? Is there anything that could be done to prevent stolen weapons from householders

and shopkeepers? I am thinking of the newscarrier boy who was killed just about a week ago and that gun was registered as Jimmy Breslin pointed in last night's paper and was traced, but it was a gun stolen from a tavern keeper, I believe.

Mr. CONYERS. I don't have any propositions that would address it. And if anyone in the subcommittee does, we would be very anxious to discuss it when the members are recognized. Let's move to the question that is now frequently perceived by the general public as being important and that is the whole matter of the Bureau of Alcohol, Tobacco, and Firearms, the agency charged with enforcing the Federal law, having enough people and resources to do it. Now who is out there measuring what they need as opposed to what they have and all the budgetary kinds of arguments that that involves? It would seem that building their capability to effectuate their duties under firearms regulations would be a very big step forward. Many dealers are not given the scrutiny they deserve and many of the regulations are not enforced and many others are not promulgated because of the simple reason they just don't have enough people to work in that area. They collect billions of dollars of our tax revenues. It is not hard for me to understand why that would make it very difficult to take men away from that responsibility to involve themselves in the more mundane considerations of firearms regulations.

Dr. CORBETT. I think it is true that more help is needed and part of the problem is there are too many gun dealers in the country. Back in 1968 I know when the bill first came out that it was discussed at that time. I believe that the license fee was to be something like \$25 and I believe it went down to \$10 or something of the sort. So anybody can be a gun dealer. You can be a gun dealer simply because you want to get guns at wholesale prices. So there are thousands and thousands of gun dealers out there. And until that number is reduced, there is no way even 500 extra men can scrutinize the records of all of these dealers out there. So I hope there will be more oversight.

Mr. CONYERS. Now there has been consideration that has attracted my attention about a national tracing center which would have the effect of expediting gun identification for the various and several law enforcement agencies around the country. It seems to me that this could be very important in terms not of catching criminals or hassling with citizens who are not in violation of the law, but merely in establishing that gun ownership is known by the tracing authorities and that guns that will be used illegally will be for the most part identifiable. That would greatly change, it would seem to me, Reverend, the character or the atmosphere that exists in this country. As you say, many guns that are used in crimes are stolen. But even so, the fact that we would be able to identify the last known legal owner of all weapons, that could be very significant in beginning to get some control over these weapons as we try to turn back the absolute numbers that are coming out of the factories every year. Do you see any merit in that?

Dr. CORBETT. I think this will help, but I still can't help but believe that a number of criminals, not the professional type but the street crime type, might be willing to risk it and secure a registered gun and take the risks of not getting caught because most of them really don't expect to get caught.

Mr. CONYERS. Well I am sure that there are those with that attitude, but do you think—

Dr. CORBETT. I do think it would do some good.

Mr. CONYERS. It would have some impact?

Dr. CORBETT. It would do some good.

Mr. CONYERS. And that impact might grow and accumulate after such a program were in effect over a number of years because people would come to understand that this gun is going to be identified so it would not be a dangerous weapon that is merely floating around and nobody knows where it came from. So that sort of imposes a responsibility, doesn't it, on law-abiding citizens to make sure their weapons are not stolen?

Dr. CORBETT. I think, as I commented, I believe registration as well as licensing is very good for normally accountable citizens. But the trouble I have with registration as a means that we might rely upon as a crime prevention method, is that I think, a lot of the street crime is senseless and the people who commit these kinds of crimes are people who don't think ahead. They don't think about the fact that they have a registered or unregistered gun for one thing. And they just do so many things that are senseless and that utterly makes no sense. So they don't sit down and say, "Now I have to get myself an unregistered gun or I have to remove the serial number from this one before I commit a crime."

So I fear that it would not have a deterrent effect. It is true that those who are caught, the one out of 20 that is caught and indicted, that you might be able—with a gun with a serial number on it—to trace it as having been stolen, but—

Mr. CONYERS. Well law enforcement officers, or some of them at least, are very encouraged about this method as being very helpful in facilitating their solving many of their criminal investigations.

Dr. CORBETT. But if they catch a person who has committed a crime and the person has a registered gun, say on him, but if the gun has been stolen and it doesn't belong to the individual, I don't know what purpose that serves in terms of proving that this person committed this crime. This is what I don't understand. I don't understand the logic of it.

Mr. CONYERS. Well sometimes you only have the weapon itself and you don't have the perpetrator. ATF has shown by a recent poll that 73 percent of the law enforcement agencies using its existing tracing capability where said that the trace assisted in the investigation, which is a very encouraging thing because ATF doesn't have the capability to even advertise the service because there are so many police agencies who are without it. So it would inundate them with requests. So we think this might have a marked improvement in the rate of crimes that are solved by law enforcement officers. Now I can't guarantee it, but it seems that many of them in the business, so to speak, see it as a very positive factor.

Dr. CORBETT. Well if they feel it is going to do some good, then I think that is a very important factor. I do remember talking to Congressman John Anderson a few years ago, who comes from an area where I used to have a church, and he said that in the years that he was District Attorney in Rockford, that during all that time they never were able to obtain a gun in a murder case. They

never got it. They never had a gun that they could trace. I don't know if this is general, but this is what he told me, so he wasn't much for registration at that time.

Mr. CONYERS. Of course he didn't tell you how many murders got solved in his area either. There might have been some regrettable connection between those two points. I don't know. It may be unconnected though.

Dr. CORBETT. Right.

Mr. CONYERS. Well let me at this point yield to the gentleman from Arkansas, Mr. Thornton, at this point. Oh, that is right, Mr. Thornton has left.

At this point I would like to welcome a distinguished colleague on the Judiciary Committee, a colleague from California, Mr. Charles Wiggins. We welcome you.

Mr. WIGGINS. I appreciate your welcome. I have no questions.

Mr. CONYERS. Perhaps Mr. Mann, if you would care to interrogate, I would yield to you at this point.

Mr. MANN. I think not. I appreciate Mr. Corbett coming. Thank you, Mr. Chairman.

Mr. CONYERS. Well thank you very much.

Our final witness for today is Mr. John Snyder who represents the citizens committee for the right to keep and bear arms. Mr. Snyder has been present during many of these hearings. He is the director of public affairs for the committee. He is a former associate editor of the American Rifleman's Magazine. He is, of course, a member of the National Rifle Association. He is also the president of the committee for a Prudent Arms Limitation, Inc., and has been very active in this whole subject. We welcome you and incorporate your 22-page statement with your biography in the record. That will allow you to make additional comments that you choose.

[The prepared statement of John M. Snyder follows:]

STATEMENT BY JOHN M. SNYDER, DIRECTOR OF PUBLICATIONS AND PUBLIC AFFAIRS,
CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS

Mr. Chairman, it is an honor indeed to be testifying before this Subcommittee and I deeply appreciate this opportunity to present the views of the Citizens Committee for the Right to Keep and Bear Arms to the members of the Subcommittee.

The Citizens Committee for the Right to Keep and Bear Arms (sometimes referred to as the "Committee") is an organization of American citizens who firmly believe that the Second Amendment to the United States Constitution recognizes the right of individual, law-abiding American citizens to keep and bear arms. The Committee and its members are deeply committed to the defense of this belief.

The Citizens Committee for the Right to Keep and Bear Arms was founded in 1971 and incorporated in the State of Washington in 1974. The National Headquarters Office is located at Bellefield Office Park, 1601-114th, S.E., Suite 151, Bellevue, Washington 98004. The U. S. Capital Office is located at 1735 DeSales Street, N.W., Suite 500, Washington, D.C. 20036. It is a non-profit, non-sectarian, bi-partisan, voluntary membership corporation.

The Executive Director is Alan M. Gottlieb. The Research Director is Dr. James B. Whisker. I, John M. Snyder, am Director of Publications and Public Affairs and Editor of *Point Blank*, the organization's monthly news journal.

Serving on the National Advisory Council of the Committee are many distinguished Americans, including 71 Members of Congress. Some of these are Senators Barry Goldwater of Arizona and Jess Helms of North Carolina and

Representatives John M. Ashbrook of Ohio, a distinguished Member of this Subcommittee, Marjorie S. Holt of Maryland, the Chairwoman of the House Republican Study Committee, Robert L. F. Sikes of Florida, Chairman of the Subcommittee on Military Construction of the House Committee on Appropriations, John Paul Hammersehl of Arkansas, Teno Roncallo of Wyoming, Dawson Mathis of Georgia, Jack F. Kemp of New York, Sonny Montgomery of Mississippi, Manuel Lujan, Jr. of New Mexico, Delbert Latta of Ohio, Del Clawson of California, W. S. Stuckey, Jr. of Georgia, William L. Dickinson of Alabama, Philip M. Crane of Illinois, Harold Runnels of New Mexico, Steve Symms of Idaho and Richard Iehord of Missouri.

Two State Governors serve on the National Advisory Council of the Committee, Meldrim Thomson, Jr. of New Hampshire and James B. Edwards of South Carolina. Other outstanding Americans serving on the National Advisory Council are Holmes Alexander, the columnist, Major General Aaron Bradshaw, Jr., USA (Ret.), M. Stanton Evans, chairman of the American Conservative Union, Henry Hazlitt, the economist, Neil McCaffrey, President of Arlington House Publishers, Lieutenant General James Rilsely, USMC (Ret.), and George C. Roche, III, President of Hillsdale College.

While the Citizens Committee for the Right to Keep and Bear Arms does not object to reasonable regulations on the use of firearms, we do object to restrictive legislation in this area. We support legislation which would penalize the criminal use of firearms and prevent the sale to or possession of guns by convicted felons, fugitives from justice, adjudicated mental incompetents, drug addicts, alcoholics, members of any organization seeking to overthrow the United States Government by force or violence, people who have received dishonorable discharges from the United States Armed Forces or members of any organization on the U.S. Attorney General's list of subversive organizations. We also support legislation to prevent the sale of firearms to minors.

We oppose legislation that would require the registration of firearms, the licensing of their owners, governmental confiscation of privately owned firearms or governmental bans on sales or purchases of firearms.

We support repeal of the Gun Control Act of 1968 because it has been an obvious failure in reducing crime, has seriously inconvenienced American gun owners and dealers, and has burdened the American taxpayer to the extent of millions of dollars in administrative costs alone during this period of severe economic stress.

We realize that firearms control legislation and the right to keep and bear arms are very controversial issues and have been ever since President John F. Kennedy was assassinated on November 22, 1963 in Dallas, Texas. In the wake of that tragedy a continuing stream of legislation and editorialization to limit or to abrogate the constitutionally mandated individual right to keep and bear arms has materialized. This activity has been exacerbated by the assassinations of Senator Robert F. Kennedy and Dr. Martin Luther King, Jr. and by the attempted slayings of Governor George C. Wallace and Senator John C. Stennis.

In the hearts and minds of all civilized people, these incidents shall ever remain deplorable. However, of great concern is the well intended but nonetheless emotionally generated, misdirected proposals and legislation in the area of firearms control which these tragedies inspired. Ironically, the late President Kennedy himself was an avid shooter and supporter of the right to keep and bear arms. In April, 1960, just seven months before he was elected to the Presidency, Senator John F. Kennedy was interviewed by Guns Magazine and stated that "by calling attention to a well-regulated militia for the security of the Nation, and the right of each citizen to keep and bear arms, our Founding Fathers recognized the essentially civilian nature of our economy. Although it is extremely unlikely that the fears of government tyranny, which gave rise to the second amendment, will ever be a major danger to our Nation, the amendment still remains an important declaration of our basic military-civilian-relationships, in which every citizen must be ready to participate in the defense of his country. For that reason I believe the second amendment will always be important."

Today, opponents of the right to keep and bear arms assert that the Second Amendment guarantee or recognition of the right applies only to an individual

functioning as a member of a militia such as the National Guard. This, we submit, is at best an inaccurate interpretation and is more likely a false assumption. Article I, Section 8, Paragraph 16 of the Constitution of the United States grants Congress the power "to provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress." Since the concept of a militia including its arming seems to have been thoroughly dealt with in the main body of the Constitution, it is incongruous to ascribe to the Second Amendment similar if not the same objectives. Rather, the right of individuals in their capacity as individuals to keep and bear arms in this free American society is, we believe, the more compelling and correct interpretation of the Second Amendment. For, in addition to being clearly identifiable from the earliest periods of recorded history, we strongly contend that the right of individuals to keep and bear arms in this country is at least as old as is our very freedom.

The third President of the United States, Thomas Jefferson, forthrightly upheld the principle when he declared that "no freeman shall ever be debarred the use of arms" in a draft of the Virginia Constitution in June of 1776. In two subsequent drafts, Jefferson wrote that "no freeman shall ever be debarred the use of arms within his own lands or tenements." He penned these statements without interconnecting corollary reference to a militia. Just a few weeks later, his arguments for Americans' rights rang out in the Declaration of Independence.

Later, after Americans had won their independence by force of arms, Jefferson objected to the proposed Federal Constitution because it lacked a definition of individual rights and liberties. He and others supported the Constitution only when it was apparent that a bill of rights would be incorporated into it.

Chief theoretician of the bill of rights concept was Jefferson's fellow Virginian, George Mason of Gunston Hall. Mason authored the State's Declaration of Rights and proposed an individual right to keep and bear arms.

One of Mason's early public documents was the "Fairfax County Militia Plan for Embodying the People" of February 6, 1775. He clearly indicated that persons individually armed at their own expense constituted a source of personnel from which militia could be drawn. "We do each of us, for ourselves respectively," he wrote, "promise to engage a good Fire-lock in proper Order, & to furnish Ourselves as soon as possible with, & always keep by us, one Pound of Gunpowder, four Pounds of Lead, one Dozen Gun-Flints, & a pair of Bullet-Moulds, with a Cartouch Box, or powder-horn, and Bag of Balls."

Mason's statement carried the definitive implication that it is because the people have the individual right to keep and bear arms, are capable of exercising it and in fact do exercise it that an active militia can exist. The mere fact that there is a militia depends on the people's individual right to keep and bear arms.

George Mason was a delegate to the Philadelphia Convention called in 1787 to consider changes in the Articles of Confederation, under which the newly independent States had experienced governmental difficulties. In that Convention, he objected to the lack of a bill of rights in the proposed Federal Constitution.

The Convention did adopt a Federal Constitution without a declaration of individual rights. Mason then represented Fairfax County in the Virginia convention called at Richmond to consider ratification of the Constitution. He opposed ratification on the grounds that unless guarantees of individual rights were included in the document itself, some future government could and might deny such rights.

Mason collaborated with similarly minded statesmen in other places. He corresponded with one John Lamb, an anti-Federalist in New York. In a letter to Lamb written on June 9, 1788 and carried on June 11, 1788, Mason enclosed the handwritten "Proposed Amendments Agreed Upon by the Anti-Federal Committee of Richmond and Dispatched to New York."

That agreement called for a "Declaration or Bill of Rights, asserting and

securing from Eneroachment the essential and inalienable Rights of the People, in some such manner as the following.

* * * * *

"That the People have a Right to keep & bear Arms; that a well regulated Militia, composed of the Body of the People, trained to arms, is the proper, natural and safe Defense of a free State."

Here, too, George Mason clearly indicated that the right of the people to keep and bear arms is conceptually prior to a militia.

After the Constitution was adopted, the first Congress met in New York in 1789. Mason corresponded with James Madison, a member of the first Congress. He introduced a twelve article Bill of Rights. Ten of these, including the article on the right to keep and bear arms, were adopted and ratified by the States. The article on the right to keep and bear arms, Amendment Two to the U.S. Constitution, reads: A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

The language of this Amendment carries through the concept underlying the historical development of the concept as found in the writings of Jefferson and Mason. The people have an individual right to keep and bear arms. This is distinct from a militia. Furthermore, it is a right upon which both a well regulated militia and the security of a free State depends. The right to keep and bear arms, then, is necessary to preserve the capability of maintaining freedom.

Complementing an individual's Second Amendment right in the United States Constitution are the Constitutions of over 75% of the States which specifically recognize and guarantee the right of the individual to keep and bear arms. These States proclaim the right in the following manner: Alabama, Connecticut, Michigan, Washington—Every citizen (Michigan, "person," Washington, "individual citizen") *"in defense of himself and the State."* (Emphasis Supplied)

Florida, Idaho, Indiana, Kentucky, Oregon, Pennsylvania, South Dakota, Vermont, Wyoming—Citizens, the people or "all men" (Kentucky) in *"defense of themselves and the State."* (Emphasis Supplied)

New Mexico, Ohio, Utah—"The people . . . for their security and defense." (Emphasis Supplied)

Georgia, Rhode Island—"The right of the people to keep and bear arms shall not be infringed."

Colorado, Mississippi, Missouri, Montana, Oklahoma—Every citizen or "any person" (Colorado, Montana) *"in defense of his home, person and property."* (Emphasis Supplied)

Constitutions of Arkansas, Kansas, Maine and Massachusetts indicate their people have a right to keep and bear arms for the "common defense." Alaska, Hawaii, Louisiana, North and South Carolina follow the wording of the U.S. Constitution. New York does this by statute. This year, New Hampshire adopted a right to keep and bear arms amendment in honor of the bicentennial.

In recent years, the voters of two more States, Illinois and Virginia, adopted constitutional provisions guaranteeing their citizens the right to keep and bear arms.

Of special importance is the language in the various State Constitutions, some of which is emphasized above. The great majority by State Constitutions guaranteeing the individual the right to keep and bear arms do so for purposes of the individual's self defense and often that of his family and property as well as for the protection of the State. Thus it can be inferred that these State Constitutional provisions, so often structured so as to be in harmony with the Constitution of the United States, have from the earliest times of our history to the present day provided us with some compelling insights into how the Second Amendment has been perceived and implemented.

Recourse to judicial analysis for a definitive interpretation of the Second Amendment is not the elucidative experience one might expect. As Robert A. Sprecher in his winning entry in the American Bar Association's 1965 Samuel Pool Weaver Constitutional Law Essay Competition entitled "The Lost Amendment" states, that with the exception of The Third Amendment, "no amendment has received less judicial attention than the second." Thus, Mr. Sprecher, in support of his thesis that renewed vitality should be accorded the Second Amendment and the individual's right to keep and bear arms, relies primarily on historical analysis in a manner similar to our statement.

Finding only four cases in which the Supreme Court had the occasion to directly construe the Second Amendment, the Committee concludes that the Court's rulings in this area have been narrowly drawn and are obviously quite dated. Of great significance is the fact that the High Court has not reviewed a Second Amendment case since 1939 when it declared in the *United States v. Miller*, 301 U.S. 174 (1939) that the weapon in question had no reasonable relationship to the preservation of effectiveness of a "well regulated militia;" therefore, the Second Amendment did not apply. Construing this decision, the Court of Appeals for the First Circuit in *Cases v. United States*, 131 F.2d 916 (1942), *certiorari denied* 319 U.S. 770 (1943) in upholding the constitutionality of the Federal Firearms Act of 1938, stated:

"Apparently, then, under the Second Amendment, the federal government can limit the keeping and bearing of arms by a single individual as well as by a group of individuals, but it cannot prohibit the possession or use of any weapon which has any reasonable relationship to the preservation or efficiency of a well regulated militia." (Emphasis Supplied)

The *Cases* court seemingly sounded a challenge to the modern-day efficacy of the *Miller* rule by speculating that Congress did not have the power to regulate "the possession or use by private persons not present or prospective members of any military unit, of distinctly military arms such as machine guns, trench mortars, anti-tank or anti-aircraft guns, even though under the circumstances surrounding such possession or use it would be inconceivable that a person could have any legitimate reason for having such a weapon."

Interestingly enough, the Bill of Rights in many other areas has been considerably strengthened in recent years by judicial decision. Commencing with *Gitlow v. New York*, 268 U.S. 652 (1925) numerous Court decisions have eroded on an Amendment by Amendment basis the 1833 decision in *Barron v. Mayor of Baltimore*, 7 Pet. 243 (1833) which held that the Bill of Rights restrained the Federal Government only and not the states. See *Mapp v. Ohio*, 367 U.S. 643 (1961); *Gideon v. Wainwright*, 372 U.S. 335 (1963); *Malloy v. Hogan*, 378 U.S. 1 (1964). However, various other courts have concluded that the Second Amendment does not restrict state action. See *Hardison v. State*, 437 P.2d 868 (1968); *Eckert v. City of Philadelphia*, 329 F.Supp. (1971). It therefore is not unreasonable to project that the Supreme Court is awaiting the appropriate case to definitively clarify this area by ruling on the scope and meaning of the second Amendment. Furthermore, considering the compelling historical evidence available and the ruminations of the First Circuit in *Cases*, *supra*, it is not inconceivable that the Second Amendment right to keep and bear arms would be declared absolute, immune from state infringement by virtue of the Fourteenth Amendment and unfettered by any reasonable relationship to a militia.

Departing for the moment from the still life of statutory and dated case law, we maintain that our position finds further justification in the ordinary course of recent events. Day after day, newspapers throughout the United States report numerous instances in which the presence of privately owned firearms helped prevent murder, rape or assault upon gun owners or others, or theft of their property. Nevertheless, despite the obvious crime deterrence of private firearms ownership by law-abiding citizens and the dissuading effect on some would-be criminals of the possibility of meeting a law-abiding armed citizen during the perpetration of a criminal act, advocates of restrictive gun control measures such as firearms registration, gun owner licensing, governmental confiscation of privately owned firearms continually barrage the public with the fallacy that privately owned firearms are a causal factor in the crime problem.

At this particular time, most attention is being given to handguns. We are frequently told that over half the murders in the United States are committed with the use of handguns and that there are at least 40 million handguns in private hands in the United States is a sad commentary on the state of our American society. However, impartial scrutiny of relevant statistics does not confirm the validity of this unending parade of horrors. The *F.B.I. Uniform Crime Reports for 1973*, the most recent year of official record,

indicates that of the estimated 19,510 criminal homicides in the United States, 53% were committed with the use of handguns. This represents an actual figure of 10,340. Incredibly, therefore, of all the handguns in the Nation, only .000259% were involved in a criminal homicide. In other words, approximately 99.999741% of the 40 million handguns were not! One cannot help but remark that the American automobile appears to constitute a more clear and present danger.

In a speech delivered on April 6, 1975 by the Honorable Edward M. Levi, Attorney General of the United States, to the Law Enforcement Executives Conference in Washington, D.C., it was pointed out that the number of handguns in the United States increases at the rate of 2.5 million per year. Given the annual rates of increase of criminal homicides in recent years, the percentage of handguns used in criminal homicide is constantly decreasing. Furthermore, assuming the annual increases in handguns posited by the Attorney General, criminal homicides committed with handguns would have to increase 411% or to an actual figure of 42,500 to have involved .001 percent of the handguns in the United States in such homicides.

A further analysis of the F.B.I. Uniform Crime Report for 1973, indicates that the murder and non-negligent homicide rate per 100,000 population is more than a full point higher in States with restrictive handgun laws than it is in the Nation as a whole.

The average homicide rate per 100,000 for States with restrictive handgun control laws is 10.5. The national rate is 9.3.

A table of the restrictive handgun control States and their murder and non-negligent manslaughter rates is set forth here.

States:	Rate
Hawaii -----	5.3
Illinois -----	10.4
Massachusetts -----	4.4
Michigan -----	12.1
Mississippi -----	16.1
Missouri -----	9.0
New Jersey -----	7.4
New York -----	11.1
North Carolina -----	13.0
South Carolina -----	14.4
Texas -----	12.7
Average -----	10.5

Hawaii, Massachusetts, Michigan, Missouri, New Jersey, New York and North Carolina all have a permit system for purchasing a handgun. (Massachusetts now also requires a license for carrying any gun, but did not for the period covered by these statistics.)

Illinois requires a governmentally issued identification card for the acquisition or possession of any firearm, pellet gun or ammunition.

New York requires a license to possess a handgun.

Hawaii requires the registration of firearms.

Mississippi requires the registration of handguns.

Michigan requires handgun safety inspection and certification.

South Carolina and Texas prohibit the carrying of a handgun on the person, concealed or openly, with no provision for a license to carry.

Although the law in some of the 39 other States places fewer regulations on handguns than the law in others, none are as severely regulative as any in the group of 11 restrictive handgun control States.

In addition, the average homicide rate per 100,000 population in the 39 non-restrictive handgun control States is 7.01, over three points lower than the average rate in the 11 restrictive handgun control States, and over two points lower than the national rate.

A table of those 39 States and their murder and non-negligent manslaughter rates is set forth here.

State:	Rate	State:—Continued	Rate
Alabama.....	13.2	Nevada.....	12.2
Alaska.....	10.0	New Hampshire.....	2.1
Arizona.....	8.1	New Mexico.....	11.4
Arkansas.....	8.8	North Dakota.....	.8
California.....	9.0	Ohio.....	7.3
Colorado.....	7.9	Oklahoma.....	6.6
Connecticut.....	3.3	Oregon.....	4.9
Delaware.....	5.9	Pennsylvania.....	6.3
Florida.....	15.4	Rhode Island.....	3.4
Georgia.....	17.4	South Dakota.....	3.8
Idaho.....	2.6	Tennessee.....	13.2
Indiana.....	7.2	Utah.....	3.2
Iowa.....	2.2	Vermont.....	2.2
Kansas.....	6.0	Virginia.....	8.5
Kentucky.....	9.7	Washington.....	4.0
Louisiana.....	15.4	West Virginia.....	5.7
Maine.....	2.1	Wisconsin.....	2.6
Maryland.....	11.3	Wyoming.....	6.8
Minnesota.....	2.7		
Montana.....	6.0	Average.....	7.0
Nebraska.....	4.3		

It appears, then, that the effect of the 10.5 average rate for the restrictive handgun control States is to push up the national rate.

In analyzing the number of offenses reported to the police, it becomes apparent that over half of the criminal homicides occurred in those 11 States and 14 cities outside those States where restrictive handgun legislation is in effect.

A table of those 11 States, along with the actual number of cases of murder and non-negligent manslaughter for each one of them, is set forth directly below.

State:	Homicides	State—Continued	Homicides
Hawaii.....	44	New York.....	2,034
Illinois.....	1,163	North Carolina.....	683
Massachusetts.....	256	South Carolina.....	392
Michigan.....	1,096	Texas.....	1,501
Mississippi.....	368		
Missouri.....	427	Total.....	8,510
New Jersey.....	546		

A table of the 14 cities and the actual number of homicides in each followed with a brief description of the restrictive handgun control legislation in effect in each of them, is presented here.

City:	Homicides	City—Continued	Homicides
Cincinnati, Ohio.....	68	Omaha, Nebr.....	37
Cleveland, Ohio.....	277	Philadelphia, Pa.....	430
Columbus, Ohio.....	64	St. Paul, Minn.....	14
Miami, Fla.....	104	Toledo, Ohio.....	45
Milwaukee, Wis.....	66	Tulsa, Okla.....	25
New Orleans, La.....	208	Washington, D.C.....	268
Norfolk, Va.....	39		
Oklahoma City, Okla.....	43	Total.....	1,688

Miami, Omaha and Washington, D.C. require the registration of all firearms including handguns.

Cleveland, Columbus, Milwaukee, New Orleans, Norfolk, Oklahoma City, Philadelphia and St. Paul all require a permit to purchase a handgun.

Philadelphia requires a license to acquire any firearm, including a handgun.

Cincinnati, Tulsa and Washington, D.C. require official approval of an application to purchase a handgun before legal transfer can be made.

Toledo requires an identification card for the purchase or possession of a handgun. The card, similar to a license, is issued by local authorities.

The total number of criminal homicides in the 11 States and 14 cities was 10,198. This is a little over 52% of all the 19,510 cases in 1973.

What these analyses tend to substantiate is that it cannot be demonstrated that there is a correlation between restrictive handgun control legislation and lower homicide rates. In fact, it suggests that there may be a correlation between restrictive handgun controls and higher homicide rates.

We take the general, basic position that law-breakers will, by definition, be the people who will not abide by gun control laws, and that the law-abiding will, also by definition, be the people who will. The practical effect of such a situation is that the law-abiding are placed more at the mercy of law-breakers than before.

On December 10, 1964, Sen. Warren G. Magnuson, Chairman of the United States Senate Committee on Commerce, wrote there were 40 or 50 million Americans owning firearms. He wrote this in a letter to Alan S. Krug, who in turn, reported it in bibliographic not (8) of *The Relationship Between Firearms Ownership and Crime Rates; A Statistical Analysis* on January 8, 1968. Rep. Bob Casey of Texas subsequently inserted this information in the *Congressional Record* for Tuesday, January 30, 1968. Further, according to a 1968 Harris Survey, 19% of rural households have one or more handguns, 22% of town households do, 16% of suburban households do and 21% of large city households do. For rifles, the figures are 42% rural, 29% town, 25% suburban and 21% large cities. For shotguns: 53% rural, 36% town, 26% suburban and 18% large cities. The survey was prepared for a staff report submitted to the National Commission on the Causes and Prevention of Violence, *Firearms and Violence in American Life*. Obviously, therefore, tens of millions of Americans own and use firearms for legitimate reasons such as for sporting or hunting purposes or as collectors or for self-defense. Quite probably, there are more gun owners in the United States than there are people who ever voted for a single candidate in any given presidential election.

We feel the rights of these people—tens of millions of American citizens—should not be infringed upon by an government or anyone else. We believe that the problem of crimes committed with guns should be dealt with directly, with swift, effective punishment of the wrongdoers, but not with interference with the right of law-abiding American citizens to keep and bear arms.

In his April 6th speech, the Attorney General proposed that a ban be placed on the sale or purchase of any handguns or handgun ammunition in urban areas where crime rates exceed a certain percentage of national averages. While we certainly agree with the Attorney General's desire to reduce crime in the United States and especially in those areas where crime is most a problem, we can not agree with this particular approach. Conversely, it is precisely in those high crime areas that law-abiding people are most likely to feel most threatened by criminality and, therefore, most in need of self-protection and the means for self-protection. In short, it is in those areas that decent people need personal firearms most for protection against criminals.

The Attorney General also indicated he would like to generally outlaw the so-called "Saturday Night Special" handgun. As we all know, this idea has been exhaustively debated for some years as has been the difficulty of defining "Saturday Night Special" handguns. If we were to take a size criterion, such as barrel length, for instance, and define all handguns with barrel lengths of three inches or less as "Saturday Night Special" handguns, an immediate problem becomes apparent. Someone is going to make a handgun with a barrel length of three and one-quarter inches. If we take the melting point criterion, the same potential exists. Someone is going to make a handgun that melts at just above the limit prescribed by law. Similar problems exist with cost. Cost can easily be increased.

The whole "Saturday Night Special" approach is, in our opinion, arbitrary. Since these so-called "Saturday Night Special" handguns are also generally regarded as "cheapies," we submit that "Saturday Night Special" proposals are, in fact, although not necessarily so intentioned, discriminatory economic class legislation directed against the poor. The poor, of all races and classes may, in those neighborhoods where hoodlumism is most rampant, most acutely feel the need for self-protection, but not be able to afford anything but an inexpensive handgun for that purpose.

There are over 60 bills on the subject of gun control and the right to keep and bear arms pending in the 94th Congress. The approaches are many, varied and for the most part ill conceived. In addition, there is pending a petition by the Committee for Hand Gun Control, Inc. before the Consumer Product Safety Commission to have that agency ban the sale of handgun ammunition as a hazardous substance. We are opposed to this latter because it would, in effect, prevent the use of handguns. Also, since some handgun ammunition is

used in rifles, such as the .22 caliber long rifle and the .45 ACP cartridges, it would also render useless many rifles as well.

In the Senate, S. 1447, by Sen. Edward M. Kennedy of Massachusetts, would require the registration of all handguns and the licensing of all handgun owners and ban the domestic manufacture, distribution and sale of all guns with barrels of six inches or less. As stated and supported above, the Citizens Committee for the Right to Keep and Bear Arms on serious Constitutional and other grounds opposes firearms registration, gun owner licensing and governmental bans on firearms and thus, we oppose Sen. Kennedy's bill.

In the House of Representatives, Congressman Robert F. Drinan, also of Massachusetts, has introduced H.R. 2433, which would restrict the availability of firearms for law enforcement and military purposes, and certain approved sporting and recreational purposes. This bill amounts to a general prohibition on the individual ownership of firearms by private citizens and reminds us of another "experiment" in prohibition, the prohibition on alcoholic beverages. History will not accord "Prohibition" or its well intentioned promoters great distinction. History will record the birth of organized crime syndication on a national scale as an outgrowth of Prohibition. Such a result is all to probable in the event of a general firearms prohibition. A black market in guns would most likely develop resulting in an increase in criminality rather than a reduction of it.

S. 750, by Sen. Philip A. Hart of Michigan, and H.R. 40 by Rep. Jonathan B. Bingham of New York, provides for 5 years in jail or a \$5,000 fine or both for each handgun not turned in to a law enforcement agency by an American citizen within six months after enactment of the legislation into law. We are adamantly opposed to this proposed legislation and consider it to be a grave and absolute denial of our rights and totally contrary to our fundamental freedoms and traditions.

The Citizens Committee for the Right to Keep and Bear Arms is not unmindful of the problem of increasing crime in this society and the suffering and horror thrust upon the unprotected by those disposed to violence and unlawfulness. Further, we respect and support the role of responsible legislation which accomplishes its intended purpose of regulating and punishing the few without the wholesale deprivation of the rights of the majority.

For example, we support H.R. 6054, by Rep. Robin L. Beard of Tennessee, to provide mandatory sentencing for criminals carrying firearms while committing a Federal crime. To us law-abiding firearms owners who believe most strongly in our right to keep and bear arms, the worst cross to bear is the criminal element in our country which uses guns to commit its heinous deeds. Those deeds, through a process of guilt by association, often make all gun owners, the vast majority of whom are sold, upstanding citizens, appear guilty. Legislation which effectively confronts the root of the problem and which jails those who commit crimes with guns shall receive our all-out support.

As previously stated, we will support any legislation which would prevent the sale to or possession of guns by convicted felons, fugitives from justice, adjudicated mental incompetents, drug addicts, alcoholics, and others judged by some reasonable standard as constituting a present danger to society. To accomplish this end, such means as a reasonable waiting period before the consummation of a sale of a firearm would be acceptable.

We support H.R. 1087, H.R. 5186 and H.R. 5712, by Rep. Steven D. Symms of Idaho and 45 co-sponsors, which would provide that "the United States Consumer Product Safety Commission shall make no ruling or order that restricts the manufacture or sale of firearms, firearm ammunition or components of firearm ammunition, including blackpowder or gun powder."

We support S. 141, by Senators James A. McClure of Idaho, Paul J. Fannin of Arizona and Jake Garn of Utah, to repeal the Gun Control Act of 1968, and S. 144 also by Sen. McClure to prohibit a ban on the use of lead shot in hunting of waterfowl. Such a ban is presently under consideration by the Department of the Interior.

In conclusion, the Citizens Committee for the Right to Keep and Bear Arms urges that the Constitution of the United States and the heritage and tradition of the American people recognize and guarantee the fundamental right of the people to keep and bear arms. We believe as so often has proven true, that our traditions, heritage, and Constitution are founded upon certain enduring

principles which the passing of time can neither erode or antique. The right of individuals to keep and bear arms is one such principle that we are deeply committed to preserve.

The Citizens Committee for the Right to Keep and Bear Arms appreciates the opportunity provided it by the Subcommittee to make this presentation.

Finally, the Citizens Committee for the Right to Keep and Bear Arms and its members earnestly endorse this statement and the positions subscribed to herein. We respectfully submit that our views merit careful consideration and support by the Congress of the United States on any position taken by it with respect to firearms control legislation.

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Mr. CONYERS. You may proceed.

TESTIMONY OF JOHN M. SNYDER, DIRECTOR OF PUBLIC AFFAIRS, CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS

Mr. SNYDER. Thank you Mr. Chairman and members of the committee and counsel. I appreciate this honor to present the views for the Citizens Committee for the Right to Keep and Bear Arms. I shall simply sum up some parts of our statement.

While the Citizens Committee for the Right to Keep and Bear Arms does not object to reasonable regulations on the use of firearms, the licensing of their owners, governmental confiscation of legislation which would penalize the criminal use of firearms and prevent the sale to or possession of guns by convicted felons, fugitives from justice, adjudicated mental incompetents, drug addicts, alcoholics, members of any organization seeking to overthrow the U.S. Government by force or violence, people who have received dishonorable discharges from the U.S. Armed Forces or members of any organization on the U.S. Attorney General's list of subversive organizations. We also support legislation to prevent the sale of firearms to minors.

We oppose legislation that would require the registration of firearms, the licensing of their owners, governmental confiscation of privately owned firearms or governmental bans on sales or purchases of firearms.

We support repeal of the Gun Control Act of 1968 because it has been an obvious failure in reducing crime, has seriously inconvenienced American gun owners and dealers, and has burdened the American taxpayer to the extent of millions of dollars in administrative costs alone during this period of severe economic stress.

We realize that firearms control legislation and the right to keep and bear arms are very controversial issues and have been ever since President John F. Kennedy was assassinated on November 22, 1963, in Dallas, Tex. In the wake of that tragedy a continuing stream of legislation and editorialization to limit or to abrogate the constitutionally mandated individual right to keep and bear arms has materialized. This activity has been exacerbated by the assassinations of Senator Robert F. Kennedy and Dr. Martin Luther King, Jr., and by the attempted slayings of Governor George C. Wallace and Senator John C. Stennis.

In the hearts and minds of all civilized people, these incidents shall ever remain deplorable. However, of great concern is the well intended but nonetheless emotionally generated, misdirected proposals and legislation in the area of firearms control which these tragedies inspired. Ironically, the late President Kennedy himself was an avid shooter and supporter of the right to keep and bear arms. In April 1960, just 7 months before he was elected to the Presidency, Senator John F. Kennedy was interviewed by Guns magazine and stated that:

By calling attention to a well-regulated militia for the security of the Nation, and the right of each citizen to keep and bear arms, our Founding Fathers recognized the essentially civilian nature of our economy. Although it is extremely unlikely that the fears of government tyranny, which gave rise to the second amendment, will ever be a major danger to our Nation, the amendment still remains an important declaration of our basic military-civilian relationships, in which every citizen must be ready to participate in the defense of his country. For that reason I believe the second amendment will always be important.

Today, opponents of the right to keep and bear arms assert that the second amendment guarantee or recognition of the right applies only to an individual functioning as a member of a militia such as the National Guard. This, we submit, is at best an inaccurate interpretation and is more likely a false assumption. Article I, Section 8, Paragraph 16 of the Constitution of the United States grants Congress the power "To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress." Since the concept of a militia, including its arming, seems to have been thoroughly dealt with in the main body of the Constitution, it is incongruous to ascribe to the second amendment similar if not the same objectives. Rather, the right of individuals in their capacity as individuals to keep and bear arms in this free American society is, we believe, the more compelling and correct interpretation of the second amendment. For, in addition to being clearly identifi-

able from the earliest periods of recorded history, we strongly contend that the right of individuals to keep and bear arms in this country is at least as old as is our very freedom.

We have some further statements from the Founding Fathers to substantiate this, which I will not read because it is quite similar to material Senator McClure submitted to this committee when he testified earlier this year.

I would like to point out though that the second amendment to the Constitution is complemented by 75 percent of the constitutions of the States which recognize an individual right of citizens of the State to keep and bear arms. We feel that this language is extremely important.

The great majority of State constitutions guaranteeing to individuals the right to keep and bear arms do so for purposes of the individual's self-defense and often that of his family and property as well as for the protection of the State. Thus it can be inferred from these State constitutional provisions, so often structured so as to be in harmony with the Constitution of the United States, have from the earliest times of our history to the present day provided us with some compelling insights into how the second amendment has been perceived and implemented. Now, we followed that statement up with some reference to case law which I will simply leave for the record.

But departing for a moment from the statement, we maintain that our position finds further justification in the ordinary course of recent events. Day after day newspapers throughout the United States report numerous instances in which the presence of privately owned firearms helped prevent murder, rape, or assault upon gun owners or others or the theft of their property. Nevertheless, despite the obvious crime deterrence of private firearms ownership by law-abiding citizens and the dissuading effect of some would-be criminals of the possibility of meeting a law-abiding armed citizen during the perpetration of a criminal act, advocates of restrictive gun control efforts such as firearms registration, gun owner licensing, Government confiscation of privately owned firearms, continually barrage the public with the fallacy that privately owned firearms are a causal factor of the crime problem.

At this particular time, most attention is being given to handguns. We are frequently told over half the murders in the United States are committed with the use of handguns and that the fact that there are at least 40 million handguns in private hands in the United States is a sad commentary on the state of our American society.

However, impartial scrutiny of relevant statistics does not confirm the validity of this unending parade of horrors. The F.B.I. Uniform Crime Reports for 1973, the most recent year of official record, indicates that of the estimated 19,510 criminal homicides in the United States, 53 percent were committed with the use of handguns. This represents an actual figure of 10,340. Incredibly, therefore, of all the handguns in the Nation, only .000259 percent were involved in a criminal homicide. In other words, approximately 99.999741 percent of the 40 million handguns were not. One cannot help but remark that the American automobile appears to constitute a more clear and present danger.

In a speech delivered on April 6, 1975, by the Hon. Edward M. Levi, Attorney General of the United States, to the Law Enforcement Executives Conference in Washington, D.C., it was pointed out that the number of handguns in the United States increases at the rate of 2.5 million per year. Given the annual rates of increase of criminal homicides in recent years, the percentage of handguns used in criminal homicide is constantly decreasing. Furthermore, assuming the annual increases in handguns posited by the Attorney General, criminal homicides committed with handguns would have to increase 411 percent or to an actual figure of 42,500 to have involved .001 percent of the handguns in the United States in such homicides.

Mr. CONYERS. Pardon me, Mr. Snyder, let me say that I appreciate your testimony. Would you be able to summarize it briefly?

Mr. SNYDER. Yes, I intend to leave the rest of the statistical material just for your perusal because it is too long and detailed for presentation at this time. But the statistics to come further substantiate the positions that I have been trying to make here.

Mr. CONYERS. And your committee still takes the position that the Gun Control Act of 1968 should be repealed?

Mr. SNYDER. Yes, Mr. Chairman, for the reasons that I gave. We feel that since that act was passed, that crime has not decreased, but has increased. Therefore we cannot say that this has been effective. We should not be taxing people to pay for the administration of this type of thing.

Mr. CONYERS. Do you have 71 Members of Congress still on your National Advisory Council?

Mr. SNYDER. I believe it is now 81.

Mr. CONYERS. Well I don't know if Dr. Corbett is here or not, but I didn't put that question to him and I want to—

Mr. SNYDER. I believe there are 78 Members of the House and I think three Members of the Senate.

Mr. CONYERS. I see. Well then if you are for the repeal of the 1968 Gun Control Act, there is probably no legislation that you would endorse in its place?

Mr. SNYDER. Well as I pointed out, I think that some parts in it like the parts against preventing the sales of firearms to felons and minors and mental incompetents and people of that nature, is okay. I also do not object to the idea of a waiting period between the purchase and delivery, but the burden should be on the dealer in checking with law enforcement to see what is the situation with regard to—

Mr. CONYERS. Do you have any views about any parts of the President's proposed legislation in this area that you would subscribe to?

Mr. SNYDER. Well I was writing down as Mr. Macdonald was speaking here and there was one proposal there in which he said something to the effect of making it more difficult for felons to obtain guns and I would definitely support that. I would not support the ban on Saturday night specials. I don't really know what he has in mind when he is talking about limiting the number of federal licensees. So I support his point on mandatory sentencing certainly. But the rest of it I feel I would have to analyze further. But I would feel, just in giving you a cursory answer, that we would have to say that we would not.

Mr. CONYERS. Well I am reserving judgment just like you are. I have noticed that the President has not been able to secure any sponsors so far. I hope my statement doesn't spur someone to redress that situation.

But I yield now for any questions or observations from the gentleman from South Carolina, Mr. Mann.

Mr. MANN. Thank you, Mr. Chairman. I have no questions.

Mr. CONYERS. Then I would ask the gentleman from California, Mr. Wiggins, if he has any questions or observations he would like to raise at this point.

Mr. WIGGINS. Thank you, Mr. Chairman. Mr. Snyder, do you believe that the second amendment discriminates through a nondiscriminatory tax levied against the manufacturer?

Mr. SNYDER. I didn't hear all of that. A nondiscriminatory tax?

Mr. WIGGINS. Yes.

Mr. SNYDER. Would you be a little more clear, sir?

Mr. WIGGINS. Do you believe that the second amendment would prohibit the Federal Government from imposing a tax to be levied against the manufacturer?

Mr. SNYDER. Well again I would have to study that question. I haven't studied it, but I would suppose not.

Mr. WIGGINS. Attorney General Levi has said that we are turning out roughly 2.8 million new handguns into the system every year. If there were, let us say, \$100 tax on every handgun manufactured in the United States and that was levied upon the manufacturer, what impact do you think that would have on the sale of new handguns?

Mr. SNYDER. It would decrease the sale.

Mr. WIGGINS. Do you think it would be a significant decrease?

Mr. SNYDER. I do not know because I haven't seen any projects that have been done on this so I don't really know, but it would seem to me that it would be rather serious.

Mr. WIGGINS. And you do not believe off hand that that raises a Constitutional issue?

Mr. SNYDER. It might. It might, depending on just how serious the effect was.

Mr. WIGGINS. Well if you would like to reflect upon the question and submit your views after more consideration, I for one would be most interested in reading them. Thank you.

Mr. CONYERS. Mr. Snyder, we are grateful to you for your coming before the committee and we appreciate the continuing concern as evidenced by your joining with us in so many of the hearings that we have held here in Washington.

The subcommittee stands in adjournment.

[Whereupon at 4:10 p.m. the subcommittee recessed, subject to the call of the Chair.]

FIREARMS LEGISLATION

WEDNESDAY, SEPTEMBER 24, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Hughes, McClory, and Ashbrook.

Also present: Maurice A. Barboza, counsel.

Mr. CONYERS. The subcommittee will come to order.

We are delighted to welcome back again the Assistant Secretary of the Treasury, Mr. David R. Macdonald, accompanied, of course, by Mr. Rex Davis, the Director, Bureau of Alcohol, Tobacco and Firearms; and the Deputy Assistant Secretary of the Treasury, Mr. James Featherstone. We welcome you gentlemen.

Before you begin, I would like to indicate that yesterday I introduced H.R. 9780, a bill that results from my own review of the question we have been investigating for some 7 months. It is a bill that essentially bans the handgun, in an attempt to save 10,000 persons each year from handgun deaths. It is the result of careful study on my part, and a great deal of advice from many of the experts who have appeared before this subcommittee.

We welcome you back, Mr. Secretary. We have your statement that you brought with you this morning, and it will appear in the record at this point. We have invited you back to continue the discussion that we were engaged in when you were last here.

Before you commence, however, I would like to ask you to indicate to this subcommittee what measures, if any, are being reviewed, in connection with providing additional protection to the President of the United States, as well as to the Presidential candidates who are already out and running and those who will be entering the race later? [The prepared statement of David R. Macdonald follows:]

STATEMENT OF HON. DAVID R. MACDONALD, ASSISTANT SECRETARY OF THE TREASURY
(ENFORCEMENT, OPERATIONS, AND TARIFF AFFAIRS)

Mr. Chairman, it is always a pleasure to appear before this Subcommittee to continue a dialogue that has ranged from the philosophy of statutory enactment as a means of effecting moral change, to the size of ATF's budget. I understand that today's testimony is to be closer to the latter than the former.

I do think it appropriate, however, to classify one ambiguity contained in the letter from the Subcommittee inviting me to testify. In your letter, Mr. Chairman, it is stated:

"[W]e agreed to examine further your contention at that time that the Bureau of Alcohol, Tobacco and Firearms in general has been adequately funded in recent years for the fulfillment of its various statutory responsibilities."

Actually, I did not defend ATF's budget as such.

The issue that gave rise to this hearing, as I understand it, arose out of a discussion at my last testimony on July 24, 1975, which went as follows:

"Mr. MACDONALD. I would be interested in going over serially those areas in which you feel that ATF has not done a job under the 1968 Gun Control Act with its limitations, which we are trying to correct by this proposed legislation.

Mr. CONYERS. I think that is a great idea and I accept it."

Thus, I look forward to discussing those areas of ATF's operation (1) which reflect a substantial failure to carry out and enforce the Gun Control Act of 1968 as intended by Congress, and (2) as to which corrective measures have not been addressed in the President's Crime Message, delivered to Congress on June 19, 1975, and introduced as H.R. 9022.

You were kind enough to supply me with extracts of testimony from several Regional Offices of ATF. These statements, almost to a man, complain about lack of funds. I must say that, although I do not agree with all of the factual conclusions reached by these officials, I would have been disappointed had they not shown their dissatisfaction with their own performance and eagerness to obtain every last dollar they could squeeze out of the budgetary process in order to attempt to do a better job.

I think everyone at Treasury and ATF (and I know this is true of Director Davis) realizes that ATF (like any other agency charged with enforcing a criminal statute) must always strive to improve its enforcement of the Gun Control Act of 1968.

Analysis of the statements extracted by Subcommittee staff, however, indicate that ATF officials, when they testified before the Subcommittee, made the following points relating to resources:

(1) ATF has insufficient manpower to make the number of firearms dealer inspections which should be made. This is by far the most common complaint.

(2) Limited manpower has forced ATF to concentrate on the more serious violations and persons who pose the most serious threat to public safety, in the "significant criminal program."

(3) When explosives violations are made a first priority, as in the Western Region, manpower is necessarily diverted from pursuing firearms violations.

(4) ATF, at least in the Midwest Region, feels it has insufficient funds for undercover purchase of evidence.

(5) ATF can handle only so many gun traces and, therefore, does not advertise its tracer service.

(6) ATF, at least in the North Atlantic Region, needs more automobiles.

(7) ATF needs a greater computer capability.

As to the problem of dealer inspection, the Administration has addressed itself to this problem with legislative recommendations, contained in H.R. 9022, which I outlined in my testimony before the Subcommittee on July 24, 1975. Our proposals are aimed at improving the effectiveness of the Gun Control Act by instituting a number of comprehensive revisions. One such revision will effect a reduction in the number of dealers so that they can be regulated more closely. Thus, rather than increase the number of ATF inspections, we propose to reduce the number of dealers to those responsible dealers who are actually engaged full-time in the firearms business.

First, we proposed amending the existing licensing standards by including a provision which would permit the Treasury to inquire into each applicant's business experience, financial standing, and trade connections in order to determine whether the applicant is likely to commence the proposed business within a reasonable period of time and maintain such business in conformity with Federal, State and relevant local law.

Second, we propose to amend the Act to create special license categories for ammunition dealers, gunsmiths and dealers in long guns only.

It is true with ATF, as with other enforcement agencies, that manpower limits cause the agency to concentrate on the most serious violations and violators.

The investigative programs of all Federal investigative agencies must be carefully planned to make the best use of limited manpower. Moreover, this is precisely what the President and Congress intended in connection with the Gun Control Act of 1968. The Johnson Administration originally proposed the legislation that became the Gun Control Act of 1968. In his message, the President

explicitly stated that the legislation was not intended to curtail sporting or self-protection firearms, nor was it intended to take the place of action appropriately reserved for State action. Rather, it was intended to assist States by providing better controls over interstate and foreign commerce, leaving the issue of bans, registration, etc., to the States.

The Midwest Region feels it has insufficient funds for the undercover purchase of evidence. I am sure you appreciate that every Federal investigation agency which develops criminal cases through the use of this investigative technique would want to make as many cases as possible. Therefore, it is logical for the agency to feel that no matter how much money it has, it could still use more and develop additional prosecutions. However, as you know, there has to be a limit somewhere. This is similar to the amount of funds available to pay informants. The more money you have, the more information you may get but the supply of money can never be limitless.

Providing ATF with additional manpower would not necessarily increase its ability to trace weapons. The limitations attached to ATF's tracing capabilities are due to clerical problems at the manufacturer's level. The manufacturer must make a manual search of his records of the dealer who took delivery from the manufacturer. To improve this process would require manufacturers and all other licensees to forward records to a central location for computerization. Neither Congress nor the Administration has supported such registration to this point. In fact, Mr. Chairman, our guidance from Congress particularly in annual appropriations hearings, had led us to believe that Congressional intent to centerline all firearms records must be more clearly evidenced before we would undertake this task.

Analysis of ATF's manpower applications since 1968 shows a steady and strong emphasis on firearms enforcement. From fiscal year 1968 to fiscal year 1976, the allocation of agent manpower to firearms enforcement has been shifted from 21 percent of the total agent manpower available to 77 percent.

In terms of ATF budget requests and Treasury and OMB allowances, there have been some overall limitations from requested increases inspired by Treasury, OMB and Congress over the years, but it is clear that the increase for firearms and explosives enforcement have been substantial, from \$17.3 million (appropriated) to \$73.1 million (appropriated) per year during the fiscal year 1970 to fiscal year 1976 period.¹ More recently, as a percentage of the total ATF budget, firearms and explosives enforcement has increased from about 33 percent (fiscal year 1970) to 63 percent (fiscal year 1976) of the total budget.

In a management sense, an agency cannot absorb, train and utilize a huge influx of money or manpower; such expansion should be measured and programmed. As the Regional Director, Mr. Morrissey, pointed out at your hearings, his staff could not handle a major increment. In his example, doubling the staff, because there would be no means to adequately train the new agents over a short period of time.

Concerning ATF's regulatory efforts, it is true that ATF has not recommended the promulgation of every conceivable regulation which may have been possible under the Gun Control Act of 1968 in an effort to reduce the number of guns in the hands of United States citizens with a view to reducing violent crime thereby. In evaluating ATF's performance in this regard, we should bear in mind the intent of Congress in enacting the Gun Control Act. Congress was careful to state that:

"It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title."

The Bureau of Alcohol, Tobacco and Firearms currently does not have general purpose computers of its own. It obtains its computer support from outside the Bureau primarily through the use of other Treasury computers.

The Bureau accesses the Treasury Enforcement Communications System (TESC), operated by the U.S. Customs Service, through teletype terminals in its headquarters, regional and district offices. The use of this system is limited

¹ This amounts to about a 400-percent increase in six years, while ATF's overall budget increase was about 125 percent.

to specific law enforcement activities including inquiries and response to the TECS data base and use of the TECS network for distribution of messages from ATF headquarters to its agents in the field, or access to the National Crime Information Center (NCIC) of the Federal Bureau of Investigation and to access State and local police offices through the National Law Enforcement Telecommunications System (NLETS).

The Bureau uses the Internal Revenue Service's Data Center at Detroit, Michigan for automated payroll/personnel services, for operation of a criminal and regulatory case history information system and for miscellaneous one-time projects. Access to this facility is by mail. The design and development is done by IRS personnel.

The Departmental computer in the Office of Computer Science in the Office of the Secretary is being used for the development of regulatory and criminal enforcement systems such as the Firearms License Master File system and the Firearms Trace History System. All the applications on this computer are in the early stages of development and only limited production work has been done to date in the primary form of listing of initial data on the test files. This computer is accessed through a remote job entry terminal located in the Bureau's headquarters.

The Bureau does have a small computer in its laboratory which is dedicated to data reduction and chemical analysis.

The Bureau has a limited staff of four (4) professional computer specialists. This staff, in addition to working on new applications, is developing a five-year plan which includes obtaining the Bureau's own computer facility. In the interim, the Bureau plans on continuing its use of the Treasury facilities listed above, the Bureau of the Mint's computer at San Francisco or commercial sources as appropriate.

The testimony of the Acting Regional Director in the North Atlantic Region contains remarks about lack of equipment. He stated, "We have got three of our agents riding in one car, riding the bus or subway." At the time he appeared, the North Atlantic Region had 191 vehicles assigned and, by Goodwin's own testimony, 181 agents. Therefore, the ratio of vehicles to agents works out to more than one car per agent, especially since the figure of 181 agents includes supervisors and analysts who, although they are Special Agents, do not need cars to perform their usual daily duties. A shortage of cars cannot, therefore, be a reason for not utilizing manpower in the North Atlantic Region.

GSA Guidelines require that Government agencies should retain vehicles until they reach six years of age or are driven 60,000 miles, whichever comes first.

The standards established by GSA are guidelines for cost effectiveness and safety. Generally, because of budget limitations, agencies are not able to replace automobiles as often as they would like. For example, in Fiscal Year 1976, 494 Secret Service vehicles were eligible for replacement but the Service was only permitted to replace 77, leaving 417 in service which qualified for replacement under GSA standards.

In summary, Mr. Chairman, a review of the reports of our House Appropriations Subcommittee would appear to reflect general satisfaction with the funding level of ATF. Both ATF and the Treasury would like to operate on unlimited funds. A balanced view of the situation against the backdrop of the legislative history of the Gun Control Act of 1968, however, leads us to believe that the Congressionally approved budget limitations set in the years since the passage of that Act, even in hindsight, have shown a reasonable mixture of support for ATF with prudent fiscal restraint.

TESTIMONY OF HON. DAVID R. MACDONALD, ASSISTANT SECRETARY OF THE TREASURY (ENFORCEMENT, OPERATIONS, AND TARIFF AFFAIRS), ACCOMPANIED BY REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, AND JAMES FEATHERSTONE, DEPUTY ASSISTANT SECRETARY OF THE TREASURY

Mr. MACDONALD. Thank you, Mr. Chairman.

Before I get to this first question, there are certain technical changes that I discovered in my statement at midnight last night that I would

like to have incorporated when the official record is printed, if that is all right with the committee.

Mr. CONYERS. No objection.

Mr. MACDONALD. In addition to Rex Davis on my right, and Jim Featherstone on my left, I will also introduce the Chief Counsel of ATF, Marvin Desler—I am sorry, Jack Patterson is here, the Assistant Chief Counsel of ATF; and Dan Peckovitch, from the Office of Secretary of the Budget; and Audrey Dislin who is the Chief Budget Officer for ATF.

Addressing myself to the question that you have posed, as to candidates, the first—the advisory committee which is statutorily created to advise the Secretary of the Treasury as to the identity of major Presidential and Vice Presidential candidates and as to their protection, this committee met yesterday and determined that all Presidential candidates who appear to meet—and this is a term of ours—appear to meet the matching payments qualification under the Federal Campaign Act, will receive Secret Service protection, as of October 1, or as soon thereafter as possible.

The Federal Election Commission will give to the Treasury Department and to the advisory committee a letter advising us who, at this time, appears to meet this minimum threshold level. And the Secret Service will then commence protection of those candidates, hopefully by October 1.

The procedures of the Secret Service, as opposed to the protective intelligence function of the Secret Service, the actual protective procedures of the Secret Service are under review by the Secret Service. We at the Treasury will undoubtedly look at that review.

As a protective intelligence function, Secretary of the Treasury, William Simon, has intensified, as I think is the best word, a review that has been ongoing, regarding the identification of persons of protective interest. This review was—this particular review was commenced about a year ago by an outside firm, and in the light of these two incidents that have occurred over the last month, this firm will be redirected, of course, at those incidents, and toward fitting them into its profile of a Presidential protective threat. We hope to get some concrete recommendations back as soon as possible on that particular review, although we do not want to in haste compromise the depth of the analysis.

Mr. CONYERS. I presume there has been unhappiness about the nature of the protection the Secret Service provides to the President of the United States?

Mr. MACDONALD. I would not want to say that. The Secret Service receives 200,000 pieces of protective information a year. It interviews 4,000 people every year who have evidenced, or appear to have evidenced unusual interest in its protectees. It arrests 60 people a year, as a result of threats made against the President. And it identifies its effort toward 275 to 300 people a year, every time a protectee takes a trip, in order to assure the Secret Service personnel that those people's whereabouts are known, and that they will not be in the proximity of the protectee.

Now, of course, there has been no newspaper reporting of all of the attempts on the life of any protectee which have not occurred. It is only the other event that receives press attention. But, like any inexact

science, both the Secret Service and we at Treasury feel that we can always improve it, and we are certainly attempting to do so.

I would have to add that the Secret Service itself has called in behavioral scientists, psychiatrists, and other personnel from both the academic community and from the Government over the years, since the Warren Commission study, to make in-depth studies of how to define a person who is of protective interest to the Secret Service.

Mr. CONYERS. It is incorrect to say that the names of both Misses Fromme and Moore were in Secret Service files among the 400,000 pieces of information they collect annually?

Mr. MACDONALD. I believe the Secret Service has indicated that Ms. Fromme was not in their files.

Mr. CONYERS. They had no notice that she was a person who might well should have been in the files if she was not?

Mr. MACDONALD. It is very difficult to answer that question, because we are now getting into areas where there are ongoing criminal investigations.

Mr. CONYERS. I am not asking about the criminal investigations, Mr. Secretary. This is really a matter of public record, I suppose. Let us not talk about criminal investigations.

Mr. MACDONALD. The Secret Service files are not a matter of public record.

Mr. CONYERS. It has been revealed publicly that Ms. Fromme was not in the Secret Service files.

Mr. MACDONALD. That is correct.

Mr. CONYERS. The question arises— a person who was part of the Manson operation might well be eligible, do you not think, for inclusion into a file that contains 400,000 other people?

Mr. MACDONALD. 400,000?

Mr. CONYERS. Did you not say 400,000 pieces of information?

Mr. MACDONALD. No, 200,000 pieces of information are screened by the Secret Service every year. There are now, as I understand it, approximately 36,000 people in their files. I do not know—hindsight is a wonderful thing.

Mr. CONYERS. But I mean foresight, sir. I am not trying to recreate the incident or talk about what we should have known. But is it not logical that a member of the Manson operation in California would be included in the files of the 36,000 people that are covered?

Mr. MACDONALD. This is, of course, one of the things we are looking into, Mr. Chairman, and I can only say that it might be just as logical that those people who are interested in civil liberties in this country would not want to see guilt by association. And since the Fromme girl was not, as far as I know, a part of any of the Manson crimes, then I think you could as easily have said before the effort that this was—

Mr. CONYERS. I am just saying that you are not suggesting, that a person's name appearing in the Secret Service files imputes wrongdoing to them?

Mr. MACDONALD. By no means.

Mr. CONYERS. What would be the purpose of the statement, then?

Mr. MACDONALD. The purpose of the statement would be that if we took everyone who was associated with everyone who was in our files, we would have a much larger set of files.

Mr. ASHBROOK. I would say to the Chairman that, speaking as a member of the old Un-American Activities Committee that this Congress is full of people who do not think you ought to keep a file on anybody. And by the criteria laid down, I would say all the Black Panthers, all the Ku Klux Klanners, all the SLA, all the Weathermen, all the SDS members, all the ones who are in radical groups in this country—which this Congress has seen fit to no longer have investigated—would come under the general surveillance, as far as the potential risk for the President of the United States. And I think we are talking out of two sides of our mouth in the Congress if we blame the Secret Service or anyone at the same time we have taken a general position against surveillance files, anything regarding radical elements in this country.

Mr. CONYERS. Let me point out to my colleague—and a good friend of mine—on this subject. The House Un-American Activities compilation of files, and the Secret Service's responsibility in protecting the President, are two completely different things. Let me proceed—just a moment; I will recognize you on your own time. I would like to proceed with this discussion.

Mr. ASHBROOK. Yes.

Mr. CONYERS. Now, Mr. Secretary, is it correct that Ms. Moore was a part of the Secret Service files?

Mr. MACDONALD. Yes, she was known to the Secret Service.

Mr. CONYERS. And can you discuss with this subcommittee how she was able to come so close to the President of the United States with a handgun to create a second dangerous threat to his life?

Mr. MACDONALD. I really cannot. I think this is one of the things that we have to keep within the bosom of the reviewing bodies. We have, again, an ongoing criminal investigation, and we also have a problem of maintaining Secret Service procedures confidential, at the risk of compromising the protection of our protectees.

Mr. CONYERS. Would you be willing to talk to the subcommittee confidentially about this matter at your earliest convenience?

Mr. MACDONALD. I think I would like to get together with the staff and see what we could supply to the subcommittee in confidence, yes.

Mr. CONYERS. Before we proceed, let me ask you about the weapons involved in each of these incidents.

Mr. MACDONALD. Here again, I think we are right in the middle of the criminal investigation, and it goes on, sir. But ask the question, and I will see if I can answer.

Mr. CONYERS. I do not want to ask the question. I want you to tell me what you can about the tracing operations on both weapons. That is the responsibility of the ATF, as I understand. Let us start with the Fromine .45. Is it correct that you indulged in a tracing operation, and can you or Mr. Davis indicate the result of that search in connection with the weapon?

Mr. MACDONALD. I also would really like to talk to the staff about what information we can supply in that regard, too.

Mr. CONYERS. I did not hear you.

Mr. MACDONALD. I really would like to talk to your staff about what information we could supply in that regard, too. I am not saying there is one, but there are possible questions of allegations of conspiracy

that could result from various results of tracing weapons, and, really, at this point in time I think those questions might be better addressed to the Justice Department, which is in charge of these investigations.

I am sorry, and that is, also in the Fromme case, a judge has imposed the gag rule which will keep us from talking about it.

Mr. CONYERS. Did you hear that that gag rule has been lifted?

Mr. MACDONALD. No, only as far as Miss Fromme talking to the press about matters other than the incident in question; that is the only thing I have heard.

Mr. CONYERS. Are you aware that accounts of ATF's efforts to trace the weapon have appeared in the newspapers, over television, and in the media?

Mr. MACDONALD. The media is very assiduous. That does not justify our disclosing anything that the newspapers say something. We are not going to comment on it. We realize we will get beaten about the head and shoulders, but we just have to stand moot during the course of investigation. That is all we can do.

Mr. CONYERS. Well, the gentleman sitting to your right, the Director of ATF is quoted in an article that appeared in the Washington Star in connection with the gun. Mr. Davis is quoted as saying:

It has been traced and that we know it was made in 1914 at the Rock Island Armory for the U.S. Army. We also know it was declared surplus. Now, we are trying to follow through on the history of the gun.

Might I ask Mr. Davis if that is an accurate quotation from Mr. O'Leary of The Washington Star?

[The article referred to follows:]

[From the Washington Star, Sept. 7, 1975]

FROMME'S GUN SOLD AS SURPLUS BY GOVERNMENT

(By Jeremiah O'Leary)

The .45 caliber pistol with which Lynette Fromme allegedly tried to shoot President Ford was declared surplus and sold into the open market by the United States government.

Rex D. Davis, director the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, told The Washington Star last night that his bureau traced the weapon at the request of the FBI.

"The FBI in Sacramento gave us the serial number and description of the weapon shortly after the attempt on the President's life," Davis said. "It has been traced. At the moment we know it was made in 1914 at the Rock Island Armory for the U.S. Army. We also know that it was declared surplus. Now we are trying to follow through on the history of the gun."

Davis said the weapon was traced through the Colt firearms company in Hartford, Conn., through the National Firearms Tracing Center. He said he did not know what year the pistol was declared surplus and to whom it was sold. He said it was Treasury policy to report such information only to the official agency requesting the trace. But Davis said hundreds of thousands of Colt 45s had been made for the government since the model came into existence in 1911.

Meanwhile, the FBI in Sacramento located the man who owns the pistol which Lynette (Squeaky) Fromme allegedly aimed at President Ford Friday. Officials declined to identify the owner. They said that no charges were being filed against him and that he evidently was aware of the whereabouts of the pistol.

This is the first known case in which an assassin has used a weapon made for the government and sold in the open market by the government.

There were four bullets in the clip but none in the chamber when Lynette Fromme aimed the weapon at the President in Sacramento Friday. The Secret Service here said it was not known whether Fromme had actually pulled the trigger. Even if the pistol was fully cocked, a spokesman said, the .45 caliber

Colt will not fire until a slide mechanism at the top of the barrel is manipulated to shove a bullet into firing position.

Officials said Fromme had not pulled back the slide mechanism and may not have known how to load. The Colt 45 is different from revolver-type weapons, which require only pull on the trigger to fire shots. The .45, which carries seven large bullets in a clip inserted inside the butt, weighs nearly 2½ pounds. It not only requires strength and some knowledge, it also has several safety features that make it rather difficult to fire.

Secret Service men know that the weapon will not fire if there is pressure from a hand or body against the muzzle and that a finger inserted between the hammer and firing pin will also prevent firing.

Secret Service Agent Larry Buendorf, who moved in to prevent the woman from firing; injured the web of skin between his forefinger and thumb when he grappled with Fromme and may have been trying to prevent her firing a shot by that means. Sources said Buendorf was not sure whether the hammer plucked down on his hand. He could have cut himself on the sighting mechanism, which is sharp.

The .45 is a fearsome weapon that is deadly at close range because the bullets make large holes when they pass through a human body. Except in the hands of trained marksmen, it is inaccurate beyond 12 or 15 feet and it has a strong kick. The Army switched from the .38 caliber pistol to the .45 in 1911 because soldiers fighting the Moros in the Philippines found that the smaller pistol would not stop the charge of a bolo-swinging tribesman.

Mr. DAVIS. No, sir, the information is not accurate. It is a fact that we did trace the gun. We were asked to trace it and did so.

Mr. CONYERS. Have you not talked to the media about the tracing of the gun, Mr. Davis?

Mr. DAVIS. Yes, sir, I have to the extent that we had traced things of this kind.

Mr. CONYERS. What is inaccurate in the quote that appeared in The Washington Star. I think the subcommittee ought to be advised, if not the rest of the Nation.

Mr. DAVIS. I did inform the media that we had traced the firearm, that we discovered that it was manufactured by Colt Firearms for the military and the year of manufacture.

Mr. CONYERS. What year? Well, then what is inaccurate about the quotation that Mr. O'Leary attributes to you?

Mr. MACDONALD. I think, Mr. Chairman, that that is all he told the media. Whatever else the media reported, they got from some other source.

Mr. CONYERS. I have not reported anything else except the fact that it was made in 1914 at the Rock Island Armory for the U.S. Army, and you say that is correct.

Mr. DAVIS. Sir, it was manufactured by Colt Firearms for the U.S. Military Forces.

Mr. CONYERS. I do not mean to dwell on this and would like to pass over to more important testimony, but what was incorrect about the quotation that was attributed to you?

Mr. MACDONALD. Let us say that we are not going to confirm all the information beyond what he has just said.

Mr. CONYERS. Just a moment, let me direct the question to Mr. Davis. Was there or was there not anything inaccurate in the quotation that Mr. O'Leary attributed to you in "The Washington Star News" article?

Mr. DAVIS. Yes, sir, there was some inaccuracies as the article appeared in The Washington Post.

Mr. CONYERS. In connection with the quotation, though I am quoting only two sentences out of the article?

Mr. MACDONALD. It would just be better if we did not go into it, Mr. Chairman. I just honestly feel that the public interest, as opposed to—

Mr. CONYERS. I am not going into it, sir. I am trying to find out if the two sentences that I quoted were accurate, or not. Can you give me a yes or no answer, and I will yield to my committee as soon as I get a response.

Mr. DAVIS. Since the sentence you quoted was inaccurate and I say a minor respect—

Mr. CONYERS. Could you please indicate which minor respect the inaccuracy obtained?

Mr. MACDONALD. I think that is what we would rather stop right there without, unless we can get the approval of the court out in San Francisco.

We really wish you would let us off the hook on that, Mr. Chairman, and we will be glad to tell you in executive session.

[The documents referred to follow:]

HISTORY OF HANDGUN USED BY LYNETTE FROMME IN ATTEMPT TO ASSASSINATE PRESIDENT GERALD R. FORD AT SACRAMENTO, CALIF., ON SEPTEMBER 5, 1975

A. IDENTIFICATION OF FIREARM

Colt semi-automatic pistol, military type, Serial Number 94854, 1911 model, manufactured in 1914.

B. RECORD SEARCH FOR FIREARM

1. The records of the Colt Arms Company indicate this firearm was made in 1914, and shipped on September 10, 1914, to Benicia Arsenal near San Francisco, California. Shipment included guns beginning with serial number 94201 and ending with serial number 95000. This bracket of numbers places the weapon in question in that particular shipment. All of the firearms in that list of numbers were of the same type as the one in question.

2. Military records. (a) The records of the Rock Island Arsenal, the military's central repository for firearms records, do not reflect any record of this particular weapon. Officials advise that records of firearms as old as this one would have been destroyed long ago. Until very recently the military kept no centralized record system by serial number. We understand they are now establishing such a record which will serve future purposes, but the record will only cover those weapons currently in the possession of the military and those which come into possession of the military as time goes by.

b. The records of the Director of Civilian Marksmanship at Rock Island, Illinois, do not indicate that this firearm was ever sold by the Civilian Marksmanship Program to any civilian owner.

C. OTHER INFORMATION AVAILABLE

1. The FBI has interviewed the person who is alleged to be the actual owner of the firearm, and this man, who is about 60 years old, has told the FBI agents the name of the person from whom he acquired the firearm. The next previous owner, as identified by the current owner, is a man who is currently ill having suffered from a cerebral hemorrhage and who is in such condition that the FBI agents have been unable to question him regarding his acquisition of the firearm. No further information is known by us regarding the history of ownership of this firearm.

2. The FBI has jurisdiction of this investigation under the provisions of Title 18, Section 1751, U.S. Code. This is Public Law 89-141, enacted by the Congress in 1965, as a result of the assassination of President John F. Kennedy in 1963. Prior to that time, it was not a Federal offense to assassinate the President or

Vice President. Until this law was passed, persons who assassinated a President or Vice President, or attempted to do so, had to be prosecuted under local statutes at the place where the crime was committed.

D. POSSIBLE SOURCES THROUGH WHICH THE FIREARM COULD HAVE REACHED ITS CURRENT OWNER'S HANDS

1. The weapon could have been brought back to the United States by a soldier of World War I.

2. The weapon could have been furnished to military forces of one of our World War I allies, disposed of by that nation as military surplus and been reimported into the United States. Such action would have had to occur prior to enactment of the Gun Control Act of 1968 since surplus military weapons would not have been importable after enactment of the Gun Control Act of 1968.

3. The United States could have disposed of the weapon through some internal channel after World War I through which it could have been bought and held by one owner after another. The information to us indicates the weapon is in exceptionally good condition, which in turn indicates that it may well have been part of a collection of weapons held by some collector for a long period of time.

E. MISCELLANEOUS INFORMATION

1. We do not know if Miss Fromme pulled the trigger and caused the hammer to fall or not. When the Secret Service agents recovered the weapon it was not cocked and the chamber was empty although there was a loaded clip in place.

2. This weapon is equipped with two separate safeties. One safety is built into the grip so that the person holding the firearm must grip tightly in order to release the safety in the grip. The second safety is a lever type safety which may be operated after the weapon has been fully loaded and cocked ready for use. The operation of this safety would normally leave the hammer drawn back with a shell in the chamber. A release of that safety places the weapon in position that a pull of the trigger and a proper squeeze on the grip causes the weapon to fire. The circumstances indicate that Miss Fromme was not familiar with the operation of the weapon and this is based upon news items primarily, in that she repeatedly said, "It didn't go off." We have no way of knowing whether she pulled the trigger or not. If she pulled the trigger with the chamber empty, the weapon, of course, would not have fired. The normal operation of the weapon is that when one inserts a loaded clip into the weapon, the slide of the weapon is pushed back and this action operates the process of picking up a shell, pinning it into the chamber, and, at the same time, pushing the hammer of the weapon back into a cocked position. The weapon is then ready to fire if the safety is not on. These weapons are somewhat hard to operate and it is quite possible that a woman not possessing great strength in her hands would be unable to push the slide back to set the weapon into position to operate.

The slides of this particular type weapon bear patent numbers. The last patent issued was issued in 1913, so it is possible that the 1913, which has been publicized as the model number of the weapon, was picked up by someone looking at the slide and seeing such date adjacent to the patent number and taking it for granted that that would be the year model of the weapon.

F. SPECIAL NOTE

United States District Judge Thomas J. McBride, one of the Judges of the Eastern Division of the Eastern District of California at Sacramento, has issued a general order to the effect that no one is to release any information about this case or to discuss it publicly. This order applies to all enforcement agencies, the attorneys for the government, the attorneys for the defendant, or anyone else who might have an interest in the investigation or information concerning the attempted assassination. The purpose of this order, of course, is obvious. You should be aware that such an order does exist.

G. ATTACHMENTS

1. There is attached for your information a copy of our Form 7520.5, which replaces our earlier Form 5000, showing all information obtained in the request for tracing of this firearm as well as the results of the efforts to trace it.

Department of the Treasury - Bureau of Alcohol, Tobacco and Firearms		Request for Tracing Firearms		Date - 9/5/75	
Request made by <input checked="" type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Verbal <input type="checkbox"/> Fax		Submitting Agency <i>Sacramento, Ca</i>		Date <i>9-5-75</i>	
Submitting Officer <i>Frank Wandell</i>		Telephone Number <i>916-447-2391</i>			
Section A - Description of Firearm (See instructions on back)					
1. Caliber <i>.45</i>	2. Make <i>CL</i>	3. Model <i>19A</i>	4. Serial Number <i>94854</i>	5. Country of origin <i>U.S.</i>	6. Barrel length <i>19 1/2"</i>
10. Any other identifying marks <i>U.S. Prop Word Guide</i>					
11. Reason for trace request (include type of crime involved) <i>Attempt to Shoot President Ford</i>					
Section B - Transfer Record of Firearm (Used by person making the trace) (1914)					
Name and address of firearm purchaser <i>Myo circa 1943</i>		Telephone Number		Date	
Invoice Number		Remarks: <i>No hit - Not registered</i>			
Name and address of firearm purchaser <i>at Rock Island</i>		Telephone Number		Date	
Invoice Number		Remarks: <i>checked everywhere</i>			
Name and address of firearm purchaser		Telephone Number		Date	
Invoice Number		Remarks: <i>This is a military weapon and the military does not maintain a centralized system by serial number. We were advised by the Director of Civilian Marksmanship, located at the Rock Island Arsenal, Rock Island, Illinois, that they have no record of firearm being sold to any civilian personnel.</i>		Date	
Name and address of firearm purchaser		Telephone Number		Date	
Invoice Number		Remarks:			
Information returned to requesting agency via: <input checked="" type="checkbox"/> Phone <input type="checkbox"/> Verbal <input type="checkbox"/> Mail <input type="checkbox"/> Fax		Information released to (Name of Official): <i>FRANK WANDALL</i>			
Date <i>9/5/75</i>					
Signature <i>Sgt Taylor (7:40 p.m.)</i>					
Signature <i>Wise</i>					
Signature <i>LLSM</i>					

[From the Washington Post, Sept. 7, 1975]

SEARCH YIELDS BULLETS; GUN IS IDENTIFIED

(By Jules Witcover)

SACRAMENTO, Sept. 6—A search of Lynette Alice Fromme's apartment has found a partially empty packet of ammunition for a .45-cal. semi-automatic pistol of the kind taken from her in Friday's assassination attempt on President Ford, U.S. Attorney Dwayne Keyes reported today.

Letters from Charles Manson, the convicted mass murderer, also were found in the apartment, but nothing in them or other letters indicated "at this time" that Manson was involved in a conspiracy to kill President Ford, Keyes said.

Keyes told a press conference that ownership of the handgun has been traced to a man who will "probably not" be charged with any offense because the gun itself "doesn't have a criminal history" that would involve him. Keyes said the man, whom he declined to identify, had been interviewed and knew Fromme had the weapon. The gun had not been stolen, the U.S. attorney said.

Keyes further identified the weapon as a 1914 model. He said it was being taken to FBI headquarters in Washington today for further testing and for fingerprinting and other identification. He said it had not been test-fired yet, because that is the last step in the examination.

Keyes said also that Fromme carried the pistol used in the assassination attempt in a leg holster beneath her long, flowing red dress.

He said authorities first thought she had carried the gun in her purse.

He said it still had not been established whether the Secret Service agent who cut his hand in grabbing the gun from Fromme, Larry Buendorf, had blocked the trigger mechanism, preventing firing, as Buendorf had suggested Friday.

And the question remained, since there was no bullet found in the firing chamber, whether it could have been discharged at all. Nor was there any more information about Fromme's familiarity with the weapon, he said, to determine whether she erred in trying to fire it by not pulling back the slide to put one of the four bullets in the gun into the chamber, or never intended to actually fire a bullet.

In any event, Keyes said, "I do not believe there is a legal problem" for the prosecution making its case because no bullet was found in the firing chamber itself. Fromme has been charged with violating the presidential assassination, kidnap and assault act, which carries a penalty on conviction of more than a year up to life imprisonment. Keyes said Friday he expected to ask for the maximum sentence.

Also found in the apartment Fromme shared with her fellow member of the Manson "family" of followers, Sandra Good, were letters from the young women, to executives of various companies on ecological matters, Keyes said.

Keyes said there were no plans to bring Manson, convicted of murder in the celebrated Tate-LaBlanca case, from San Quentin prison to Sacramento for next Wednesday's presentation of the case to a federal grand jury.

However, he said, "I certainly assume" federal investigators will talk to Manson in prison about the episode. Manson was convicted in the 1969 murders of actress Sharon Tate, Mr. and Mrs. Lene LaBlanca and four others.

There were no references to assassination of Mr. Ford or anyone else in any of the letters read so far, Keyes said. However, in an interview today at her Sacramento apartment with a Los Angeles television reporter, Good said:

"The people who are polluting the environment, who are killing the air, and the water, and the trees, if they don't stop, they are going to die."

Good said that "many people will be assassinated in the near future" and mentioned executives of Georgia Pacific Corp., Dow Chemical Co., and E. I. duPont de Nemours & Co., MCA, Inc., major lumber companies and major auto companies. "They're all set up for assassination," she said.

"There is a wave of assassinations moving throughout the world and these people better stop their destruction of earth. Either these people stop doing it or they die."

Keyes said the search, begun Friday night, found no drugs at the apartment. Medical tests of Fromme have not been completed, he said, and he did not know the result of her psychiatric tests.

Asked what he would do if someone offered to put up the \$1 million bail set for Fromme, Keyes said in that case he would ask the court to require cash and he did not believe any banking institution would cooperate in producing it.

Keyes said there are 75 to 90 FBI agents in the Sacramento area and he assumed all were working on the Fromme investigation. He said he saw no reason now why a trial could not be started in four to six months, or well before the 1976 presidential election. He said he did not believe the prosecution would need to call Mr. Ford as a witness, but could not say whether the defense might want to call him.

Keyes was asked about reports that Fromme distributed to news agencies about two months ago a statement saying that "If Nixon's reality wearing a new face continues to run this country against the law, your homes will be bloodier than the Tate-LaBlanca houses, and Mylai put together."

He said that to his knowledge the remarks were never brought to the attention of the Secret Service and hence Fromme was not on the list of Sacramento suspicious persons to be monitored by the Secret Service.

In the absence of such knowledge, Keyes said, the Secret Service had no basis for considering Fromme a threat to the President. City police officials usually convey such information to the Secret Service, he said, but have no legal responsibility to do so.

[From the Washington Star, Sept. 17, 1975]

FROMME BAIL CUT, "GAG" IS MODIFIED

SACRAMENTO, Calif. (AP)—Bail for Lynette (Squeaky) Fromme, who is accused of attempting to kill President Ford, has been reduced from \$1 million to \$350,000 following her plea to be set free on her word.

"Before the world at this time, my word to myself or anybody is my life," the 26-year-old disciple of Charles Manson said from the witness stand yesterday.

She promised to appear in court whenever asked, but U.S. District Judge Thomas J. MacBride rejected the defense attorney's request to release her without bail.

"The nature of the criminal charges is extremely serious, a heinous crime to say the very least," MacBride said.

Fromme was indicted by a federal grand jury last week for "willfully and knowingly" pointing a pistol at Ford during his Sept. 5 visit to the state capital.

She is scheduled to enter a plea Friday, when MacBride said he would listen to questions regarding her request to act as her own attorney.

The judge also modified what he called the "silence" order against comment on the case by anyone involved.

She will be permitted to speak to anyone—including the press—on any subject except her attempt against the President.

Outside the courtroom, Fromme's roommate, Sandra Good, told reporters: "We don't have that kind of money (\$350,000). Anybody out there who has that kind of money, she needs your help."

Testimony of Fromme and others disclosed that:

Fromme, Susan (Heather) Murphy and Good lived on Good's \$200 monthly checks from a trust account from an undisclosed inheritance and "about \$30" a month in donations from friends.

Fromme said she does not drink or take drugs, but her roommate said they occasionally used marijuana.

Fromme feels she was "slandered" by the book "Helter Skelter," written by Manson trial prosecutor Vincent Bugliosi, and that she should not be barred from speaking publicly because of the need "to balance" publicity from the Manson trial.

Charles Manson, 40, is serving life in prison for the 1969 murder of actress Sharon Tate and six others in Los Angeles.

[From the Washington Star, Sept. 9, 1975]

FROMME GOT PISTOL FROM ELDERLY CALIFORNIA FRIEND

(By Orr Kelly)

Lynette Allee Fromme got the gun she used to threaten President Ford last Friday from an elderly friend in Jackson, Calif., U.S. Atty. Dwayne Keyes said in Sacramento today.

Keyes, in a telephone interview, identified the source of the gun as Harold Eugene Boro, 66, of Jackson.

The identity of Boro was first revealed by columnist Jack Anderson in an interview on ABC's "AM America" television program this morning.

"That is correct. That's where she got the gun," Keyes said, "He was a friend. I guess she asked for it."

Keyes said he had not yet personally interviewed Boro.

The U.S. attorney said he expected to call 12 to 20 witnesses before a grand jury in Sacramento tomorrow.

At this point, he said, he expects only one indictment—that of Fromme.

The major unanswered question now, he said, is why she confronted the President with a loaded pistol,

He said he and FBI agents had hoped the answer might be found in a large volume of material obtained from Fromme's home under a search warrant. But he said that material was still being sorted out and so far it has not provided the answer to that key question.

Boro could not be reached for comment. However, Anderson said he managed to reach Boro last night at his son's home in Jackson, a community in the foothills of the Sierra Nevada Mountains east of Sacramento.

"Boro has told agents that he bought the gun from a friend, showed it to the Fromme girl and even demonstrated how to use it," Anderson said in the television interview. "Then one day, according to his (Boro's) account, she grabbed the gun and ran off with it."

Anderson said Boro is considered harmless and apparently did not realize, when he became friendly with Fromme, that she was a member of the Charles Manson cult.

"I reached Boro last night at his son's home in Jackson, Calif.," Anderson said. "The old man's voice was drawn. He said he hadn't been able to get much sleep since the investigation began.

"But he refused to discuss the details with me, saying he had been instructed by the FBI to make no comment," Anderson continued.

"This isn't the first time that Fromme has charmed favors out of a much older man. Apparently it was her M.O.—her method of operation," Anderson said. "She once romanced an 80-year-old semi-invalid, George Spahn, who owned an out-of-the-way California ranch where old cowboy movies used to be filmed. In return, the old man let the Manson cult use his ranch as a hideout."

One of the unanswered questions in connection with Fromme's action last Friday was whether she seriously attempted to kill the President. She is being held in Sacramento under \$1 million bond on a federal charge of attempting to kill the President.

The gun she held was loaded but no bullet was in the firing chamber—indicating either that she was not familiar enough with the weapon to use it properly or that she did not really intend to have it go off.

Federal officials have determined that the gun was made in 1914 at the Rock Island Armory for the U.S. Army and was later declared surplus and sold into the open market by the United States Government.

Mr. CONYERS. All right. I will pass on that question. I think this is incredible testimony. Now, I would like to, before we move to a different part of this inquiry, yield to any members of this subcommittee who have any further development of this particular discussion that they would like to make at this time. I yield to my colleague from Illinois.

Mr. McCLORY. Mr. Chairman, I want to say very emphatically that I think the Secret Service has done an outstanding job of protecting the President, particularly in two recent very serious incidents, and I certainly would not want to challenge their quality, their high standard service in any way in this area.

I, further, Mr. Chairman, feel that we are in a very dangerous ground when we undertake to review any part of an ongoing investigation at this time, not only jeopardizing the case, but perhaps jeopardizing the individual rights of the person or persons who are alleged to have committed any criminal offenses, and I would certainly admonish all members of the committee to forgo on that kind of an inquiry. I think that it is beyond the scope of our present interest, and I, personally, would like to review only in this context the extreme importance in enhancing and tracing the capability of the ATF Bureau in the Department, which is part of the legislation I have introduced and I think which has good general support, and I think which the Bureau is endeavoring to do through its increased funding of that

operation, and, so, I am hopeful that we can proceed to a review of the matters for which this hearing was called and conclude the hearing and get on to the business of marking up a good solid effective piece of Federal gun control legislation.

Mr. CONYERS. Mr. Macdonald, we have your statement before us.

Mr. ASHBROOK. May I make an inquiry first? I was not quite certain of what the chairman said. He indicated he would yield at this point on these points. I am just asking that I would be expected to have 5 minutes in a normal course of events to ask any questions I want, not limited to what the chairman said at this point. Are we changing the questioning and interrogation; the way it was phrased, I did not quite understand it.

Mr. CONYERS. I thought that since you wanted to make remarks on this subject, and I precluded you that you or anybody who wanted to could employ the 5-minute rule at this time. I used 5 minutes, and if anybody else chooses to at this point he would be perfectly free to do so. You can, however, reserve the time for after he makes his statement.

Mr. ASHBROOK. That will be fine.

Mr. CONYERS. Now, back to the statement. As you recall, at our last session there appeared to me to be a difference between the budget projections of the Alcohol, Tobacco, and Firearms Bureau, as indicated to us, in the course of these hearings and as indicated by you in the course of your presentation. Out of that possibly large difference grew the suggestion to which you agreed that you would return and examine these considerations.

Pursuant to that, I sent you excerpts from the testimony of ATF officials who have appeared before the subcommittee which indicates the problem that I was having with your previous testimony. I will now allow you to use your statement and any other additional information that will help clear up this matter.

[The material referred to follows:]

STATEMENTS OF REPRESENTATIVES OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS RELEVANT TO THE BUREAU'S RESOURCES

REGIONAL AND BRANCH OFFICIALS—HEARING OF JUNE 10, 1975—DETROIT, MICH.

Central Region

Fred H. Murrell, Regional Director.—Mr. Murrell testified that out of 192 inspectors in the region, the State of Michigan is assigned 13: eleven in Detroit and two in Kalamazoo. Of this number, "about two and a half of these man years are lost for regular compliance work, be it firearms or what, due to the fact of required on-premises supervision of distilled spirits plants which is a requirement of law." The balance left for regulatory work in the whole State of Michigan is therefore ten and one-half people, not only for firearms work but also for regulation of "the explosives industry, which is big, the regulation of the alcohol industry, which is tremendous, which we are very frankly not able to keep up with."

On the subject of license applications, Murrell stated:

"With all of the frustrations, Mr. Chairman, that we have had with our manpower and resources, we have one distinction in the Central Region, we do not have a licensee in the region that we have not investigated prior to the issuance of the license, and that was a back-breaking task to accomplish. For that reason I think we have less licensees per capita probably than a lot of the other regions. We were able to accomplish this only by using the predominant bulk of our special agent manpower to supplement our inspector strength in order to do this. However, without help pretty soon, it's going to be hard to maintain it."

David Edmisten, Assistant Regional Director for Criminal Enforcement.—Respecting licensee inspections, Mr. Edmisten stated that within the region it was a compliance goal to perform one a year. He stated that although this was in fact

a nationwide goal "unfortunately in a lot of regions they don't have the manpower to have done this." (Continues: "So, whether they have or not I can't say.")

Finally, Edmisten made the following statement:

"I might go one step further. Both Mr. Murrell and I would like to place on the record that we need additional manpower, additional equipment. This is not the answer to the entire problem. I'm sure that the entire criminal justice system needs additional manpower, the courts need it, the prosecuting attorneys. We, alone, in law enforcement cannot abate the misuse of handguns. It's an endeavor that will come about through the entire criminal justice program, through, if you will, an educational program of the public, as well as strict enforcement of the laws relating to guns."

HEARING OF JUNE 23, 1975—DENVER, COLO.

Southwest Region

Billy L. Gaunt, Regional Director.—In his opening statement before the Subcommittee at its Denver hearing, Mr. Gaunt included the following description of his region's compliance work:

"We have an authorized 46 inspectors in the regulatory function to monitor all of [our] activities. So you can see that the job is tremendous and it is overwhelming. In a work load study that we completed last fall we found that it would take 50 inspectors just to make an original firearms investigation on every dealer making application for a license and to make one superficial examination of dealer records every three years. The inability to make compliance investigations, I believe you can see, critically affects any firearms program. A felon, for instance, can purchase a firearms from a dealer by either falsifying the required form or presenting false identification. These subterfuges can only be detected by a strong, in-depth compliance program where dealers are periodically examined and their records are investigated to determine what type of activities are taking place at that dealer's premises.

I might say that we have not yet, in the Southwest Region, made one original investigation on all of the dealers that we have licensed. We have a population in the southwestern region of about 25,000,000 people and we have a firearms dealer for every 956 people. In a statistical sample of our licenses we found that 20 percent of the licensees deal in ammunition only, that 30 percent operated from their homes and in many cases did not derive any substantial income from the firearms business."

James Harmon, Assistant Regional Director for Criminal Enforcement.—"Our criminal enforcement approach has been one of selectivity and case-worthiness. Our limited manpower coupled with crowded court dockets has forced us to concentrate on the more serious violations and persons who pose the most serious threat to public safety in our significant criminal program."

Western Region

John Krogman, Regional Director.—After recounting all of the regional office responsibilities, the number of square miles and population covered, and their present number of personnel, Mr. Krogman told the Subcommittee:

"The implication in terms of manpower, logistics, and operational trouble funds should give this Committee some idea of our problems in meeting our responsibilities. As a result, regulatory enforcement has not been able to properly handle the firearms application inspection program."

Orville J. Turner, Assistant Regional Director for Criminal Enforcement.—Mr. Turner added the following note to the Director's testimony:

"By making explosive violations our first priority we have mandated a tremendous amount of available manpower to this area which otherwise might be utilized to pursue firearms violations."

HEARING OF APRIL 15, 1975—CHICAGO, ILL.

Midwest Region

William H. Richardson, Assistant Regional Director for Criminal Enforcement.—Mr. Richardson made the following three points relating to his region's capacities:

(1) "We have funds available to make undercover purchase of evidence. Thus far, we have not had sufficient funds in this area. Hopefully, this will improve."

(2) "When we look at the number of cases that we have made, and the defendants in these cases, and the number of guns that we have seized, which come from criminals, it is not very impressive, but I feel that with the staffing that we have . . . we have done a very good job with the resources available."

(3) On tracing: We are limited in this function by what we can do. We can handle only so many traces.

Programs that have been undertaken by the Bureau have restricted the number of firearms that have been traced, solely because of their capacity to trace.

HEARING OF JULY 21, 1975—ATLANTA, GA.

Southeast Region

John L. Piper, Assistant Regional Director for Criminal Enforcement.—Mr. Piper testified that as he understood it the Southeast Region would not receive any of the additional manpower requested for ATF by the Administration. Instead, the region will be losing seventy agents on the grounds that illegal liquor production in the area has substantially declined during recent years. Piper gave the Subcommittee this assessment of the region's actual personnel requirements:

"We have so many licenses . . . 33,800 odd licensees, I think if we are going to enforce the firearms laws, we should at least maintain the manpower we have or add to it. In the regulatory area, they only have 52 men down there, and they are tied up on liquor, and therefore we do all the compliance work and we receive no help from regulatory at all. (see attachment 1 for continuation)

HEARING OF JULY 25, 1975—NEW YORK, N.Y.

North-Atlantic Region

Dan Black, Regional Chief of Operations, Regulatory Enforcement.—In the following exchange with Counsel, Mr. Black explains why the region is unable with present resources to do necessary compliance work:

"I think the best way to explain it as far as regulatory enforcement, we are spread very thin in personnel, with all of these statutes that we have to enforce." (Hearings, part 7, page 2290)

M. L. Goodwin, Acting Regional Director.—When asked to evaluate the effects of the assistance his region would receive from the proposed manpower increases, Mr. Goodwin told the Subcommittee:

"I am of the opinion that even with this addition we would be severely understaffed to do a full program, both in criminal enforcement—and at this point we do not know how many inspectors we may get out of this—but we just do not have enough people to do the work we are targeted for now.

"In addition to the severe understaffing, . . . we are severely curtailed by the lack of equipment, for instance.

"We have not received any automobiles in the North-Atlantic Region since the spring of 1973, so, therefore, we have got three or four agents riding in one car, riding the bus or subway."

HEADQUARTERS OFFICIALS—HEARINGS OF MARCH 20 AND 26, 1975

Rea D. Davis, Director, Bureau of Alcohol, Tobacco and Firearms.—Over the course of the hearings, Director Davis has made the following points relating to ATF performance and its relationship to manpower and other support:

HEARINGS OF MARCH 20, 1975

(1) "We feel a responsibility in visiting, inspecting the premises of existing licensees periodically. Very frankly, we haven't been able to accomplish that." (Hearings, part 1, page 257)

(2) "Even if we visited every licensed dealer in the United States once every three years, that means that we would have to visit 50,000 premises a year and we are not doing it. Even at that rate." [The present rate is one every 10 years.] (Hearings, part 1, page 260)

HEARING OF MARCH 26, 1975

(3) On computer capability: "We have what we call a remote terminal linked to an 1108 computer in the Treasury. We have four professional people and one clerk. My advice from those people is that the computer at Treasury is frequently not available for use, either because it is down, or because other jobs have prior-

ity." (Further see hearings, part 1, page 298) and the discussion of computer capability, by Mr. Atley Peterson, Assistant Director for Technical and Scientific Services.

(4) On the ATF tracing effort: "We are afraid [to advertise the ATF firearms tracing service]. The method . . . we do this by, we are saturated." (Hearings, part 1, page 329)

Mr. MACDONALD. Perhaps, it would be better, Mr. Chairman, if I did just have my statement, as revised, placed in the record and stand available for questions.

Mr. CONYERS. Well, since I just got the statement when you walked in the door, could you tell me what is in it please? What are your main points?

Mr. MACDONALD. The main points are that you were kind enough to send us extracts from the regional commissioners of ATF or assistant commissioners regulatory for enforcement, and these statements almost to a man do complain about a lack of funds.

Although, I do not agree with all of their factual conclusions, I must say that I would have been disappointed in these commissioners had they not taken this position because it shows to us at Treasury that they are extremely interested in doing their job, and they want every asset that they can lay their hands on in order to do it as well as they possibly can, so it does not bother us at all that they are making that statement.

I think moreover—and this does not appear in the statement as such, but should be, I think, brought to this committee's attention, and to its credit, this subcommittee has brought to ATF's attention at least two areas that I can think of that were deserving of additional attention and regulation, and I think ATF is going to start to move in that direction as a result of this committee's efforts over the last 7 months.

By and large, the great majority of the regional commissioners are complaining about lack of funds because they cannot go out and examine into every dealer's books, and their solution to that from their perspective is that they want more funds, which I think is very logical from their standpoint.

From our standpoint and from the administration's standpoint, we came up with another solution which we incorporated into a legislative proposal which is in the President's crime message and is now H.R. 9022, and that is rather than increase the number of ATF inspectors, why not in effect reduce the number of firearms dealers from the 160,000 or so that now are outstanding to perhaps 30,000 or 35,000 who we estimate are really full-time responsible dealers and who have not just obtained a dealer's license as a facility for buying and selling firearms.

Furthermore, H.R. 9022 distinguishes between dealers in handguns, long guns, and ammunition and pawnbrokers. This allows us to direct our attention more specifically in those areas where we feel that indeed illicit traffic in firearms is taking place. I think that the regional directors are correct in saying they do not have the manpower to go out and examine dealers. Our solution is a little different than theirs. That is to reduce the dealers down to about a fourth of its present population, rather than increase the money to be accorded to ATF.

Beyond that, these several officials pointed out that they felt that they were forced to pick and choose their cases and make only those cases which were quite important because they did not have the re-

sources to make all of the cases that came to their attention, and I would just ask the committee's forbearance on that point. That is a problem that every enforcement agency has, and no enforcement agency to my knowledge is able to enforce the law against every violation that comes to its attention, and everyone has to pick and choose the cases which are socially more significant in their opinion, and one of our jobs is to try to direct them in those areas, and one of the Congress jobs is to try to direct them in those areas which we feel are important.

There are a number of other points that were made by these officials which we attempted to go into in the statement. The western region indicated that it was making explosive violations a first priority, and as a result it was, I think, in its characterization neglecting firearm violations.

Well, that again is part of a selective process. The midwest region has insufficient funds for undercover purchase of evidence. I am sure you will appreciate that every Federal investigative agency which develops criminal cases through the use of this investigative technique would want to make as many cases as possible.

Therefore, it is logical for the agency to feel that no matter how much money it has, it can still use more to develop additional prosecution.

However, as you know, there has to be a limit somewhere. This is similar to the amount of funds available to pay informants. The more money you have, the more information you may get, but the supply of money can never be limitless. On the gun tracing, which at least one region had felt that it had not had the capacity to do enough of, we said providing ATF with additional manpower would not necessarily increase its ability to trace weapons.

Limitations attached to ATF tracing capabilities are due to clerical problems at the manufacturers' level. The manufacturer must make a manual search of his records to identify the dealer who took delivery from the manufacturer. To improve this process would require manufacturers and all of their licensees to forward records to a central location for computerization.

Neither the Congress nor the administration has supported this kind of registration to this point. In fact, Mr. Chairman, our guidance from Congress, particularly in our annual appropriations hearings, has led us to believe that the congressional attempt to centralize all firearms records must be more clearly evidenced before we would undertake that task.

And finally, the North Atlantic Region indicated that it needed more automobiles, and we found out, I believe—correct me if I am wrong, Rex—that indeed 50 percent of their automobiles were in excess of the GSA standards, not 70 percent as the northeast region had stated, but 50 percent were. It just so happens that in our budget request from the Secret Service, which is presumed to be a somewhat better funded agency, they also have a 50-percent overage in their GSA requirement, so that ATF in that regard is not too different from other agencies.

And then we addressed ourselves to the ATF computer possibilities, and I guess that is about the extent of the testimony, Mr. Chairman.

Mr. CONYERS. Then, there is some agreement about the conflict between that we have been told in our hearings and what you told us at the last session, which came as quite a surprise.

In other words, the regional directors were saying: We are suffering, we are short of resources, we are short of personnel, we cannot possibly comply with the 1968 gun law. You in effect said that it has not been as well as we would like it, but we have an improved method for dealing with the problem?

Mr. MACDONALD. I think that is certainly a correct statement, yes, and I think there is always that tension between the enforcement official who wants unlimited funds and the budgetary official who is looking at the amount of income available.

Mr. CONYERS. Do you have the letter from the Director of ATF, dated June 18, 1975, that was sent to Senator Bob Packwood?

[The letter referred to follows:]

JUNE 13, 1975.

HON. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: Please accept our apologies for the delay in answering your request for our estimate of the resources necessary to fully implement the Gun Control Act of 1968. As discussed by Mr. Kingsatt and Mr. McConnell, of our respective staffs, this has been an extremely busy time for us and we felt it was important that we take whatever time was necessary to give you a complete picture.

Our budget request for fiscal year 1976 includes \$52,872,000 and 2,000 persons on the administration and enforcement of the Act. We have, after a detailed study into the many facets of the Act which we have not utilized because of a lack of resources, estimated that we would require 9,506 positions and \$278,154,000 over and above the fiscal year 1976 needs.

Of the 9,506 positions, 6,884 would be special agents and inspectors. This would provide us with sufficient field personnel to initiate and apply several programs which we have, on a study or "project" basis, proven to be valid enforcement efforts to attack the problems of the criminal misuse of firearms. These program concepts are rather lengthy and we have enclosed a brief description of each for your use.

The balance of the positions represent the support functions necessary to train the field personnel, develop and operate a computer system, automate all "out-of-business" firearms dealers records, improve and widen our National Firearms Tracing Center, increase our forensic laboratory capabilities, and increase our internal inspection force. We have also provided for a small group to conduct continuing research into new operational concepts of law enforcement related to firearms.

To achieve the maximum, it would be necessary to phase both personnel and programs in over a six-year period in order to recruit and train special agents and inspectors, as well as arranging for such simple logistics as space and equipment. Some of the proposed programs could not be started without there first being a change in the regulations which implement the Gun Control Act of 1968.

"One-time" costs include moving our Headquarters laboratory into new quarters, establishment of a field laboratory in San Francisco to serve the Western States, and a computer center.

During the study of our needs, we also established a level of positions and money necessary if we were to do nothing in the way of new programs, but simply continued our current activities but placed in the Field the personnel we feel are needed. For your information, this figure is 2,384 position with a budget of \$70,118,000. This would, of course, be over and above the FY 1976 figures quoted in the second paragraph.

We appreciate your interest in ATF and, if you desire, we will go over these figures in more detail with you at your convenience.

Sincerely yours,

REX D. DAVIS, *Director.*

Mr. MACDONALD. No, sir.

Mr. CONYERS. This letter sets forward a response to the Senator's inquiry and is a very detailed, long-range program of the needs of the

Bureau, of which Mr. Davis is the Director. It is quite consistent with the testimony of many of the ATF personnel, both here in Washington, and during our hearings across the country.

Mr. MACDONALD. I would like Director Davis to address himself to that.

Mr. CONYERS. Do the members of the subcommittee have this letter in their files? Well, it is not a matter, Mr. Macdonald, of my asking Director Davis to answer it. He wrote it. I do not have any particular quarrel with it. The problem is that it suggests some variance with what you have been telling us.

Mr. MACDONALD. I think I would like him to address himself to how this integrates itself into the budgetary process.

Dr. DAVIS. Mr. Chairman, this was our response to the Senator's question as to what resources that we would require for what we would consider a full implementation of the Gun Control Act of 1968, and it would include some of the various matters that I have testified to before this committee, such things as following up on thefts from dealers and firearms. Also, requiring manufacturing records and computerizing them, so that our gun tracing—many of the areas that I have mentioned.

In addition to that, it would include, for example, a computerizing the out of business records of firearms dealers.

Mr. CONYERS. Let me yield to Counsel Barboza, briefly, to pinpoint this dichotomy I think we are confronted with.

Mr. BARBOZA. Mr. Macdonald, at the top of page 6 of your statement, you state: "Providing ATF with additional manpower would not necessarily increase its ability to trace weapons." Again, on page 6 you indicate that clerical problems at the manufacturers level limit ATF's ability to trace firearms. You further indicate that a manufacturer must make a manual search of his records in order to locate the dealer to whom he has transferred a firearm. To improve this process, the Secretary could require manufacturers and all licensees to forward firearms transaction records to a central location for computerization. In a further sentence you state:

"Neither Congress nor the Administration has supported such registration to this point."

Now, under the 1968 Gun Control Act, we have been told that ATF, has the authority to centralize manufacturer and dealer records.

Mr. MACDONALD. There is no question about that. The question was asked by Mr. Thornton, I believe, at the last meeting, whether we would do that without further congressional authorization, in the light of the legislative history of the Gun Control Act of 1968, and I said I thought it was our position, although I had no administration instructions in this regard, that we would want some congressional approval of that before undertaking it.

Mr. BARBOZA. The manufacturers' records are very important to firearms tracing, in that they indicate the origin of the gun. If the manufacturer does not know who he sold the gun to, then you have to stop right there.

The Chairman of the subcommittee directed a letter to all handgun manufacturers in the United States—some 34—dated April 3, 1975. One of the requests made was to provide the subcommittee with the dates and purposes of visits made by representatives of the Bureau of

Alcohol, Tobacco and Firearms and the length of time spent. As of this date, only one manufacturer has been able to provide us with this information. The others have said that they do not keep records of ATF visits. The purpose of this request was to determine whether ATF is inspecting manufacturer's records for adequacy.

Subsequent to that, the Chairman directed a letter to Mr. Davis, and requested ATF to provide the subcommittee with information on the number of visits made to the manufacturer's premises. To date, that information has not been received by the committee, but in addition to that, letters were sent to the Director for information concerning two manufacturers who have failed to provide this committee with essential and fundamental information concerning the number of guns manufactured and to whom they were sold.

On June 24, the Director sent a letter to Mr. Conyers which states:

In response to your request that we have our special agents determine whether two firearms manufacturers, Dan Wesson, Incorporated and Buddy Army Company are in compliance with the recordkeeping provisions of the Gun Control Act of 1968, we wish to report that neither of these firms were in total compliance.

The letter further goes on to indicate the difficulties ATF would have if asked to retrieve the information requested by the subcommittee. Now, does this not, Mr. Macdonald, point up a very serious problem? We have been told by the director that it is impossible to inspect the 150,000 licensees, but of course, there are only 32 handgun manufacturers. If they are not inspected regularly and their records are not complete and accessible to ATF, does that not inhibit your tracing capabilities? Does that not also put in jeopardy the entire understanding that ATF might have of the traffic in firearms in the country? Would not those records be significant?

[The letter referred to follows:]

DEPARTMENT OF THE TREASURY,
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,
Washington, D.C. June 24, 1975.

HON. JOHN CONYERS, JR.
Chairman, Subcommittee on Crime,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request that we have our special agents determine whether two firearms manufacturers, Dan Wesson, Inc. and Buddie Arms Company, are in compliance with the recordkeeping provisions of the Gun Control Act of 1968, we wish to report that neither of these firms were in total compliance.

Our agents found that the firm of Dan Wesson, Inc. did not keep their records on firearms in strict compliance with Section 178.123 of the regulations which implement the Gun Control Act. This was a technical violation and not of sufficient seriousness to warrant a revocation of the firm's license or referral to the United States Attorney. We found that it would take four agents about six weeks to gather the information which you requested from the firm and this was discussed with Mr. Barboza of your staff. It was agreed that this was an expenditure of manpower which we could not afford at this time and we have discontinued our inspection of the firm's firearms records. The information which you requested is available should you decide to seek it through the subpoena process.

We have just completed a criminal investigation of the Buddie Arms Company in Texas for violation of the recordkeeping provisions of the Gun Control Act which resulted in the indictment of one company official at this time, and the possibility of additional indictments being returned by the United States Grand Jury in the near future. It is our understanding that the owner of the firm is very elderly, and for this reason, the United States Attorney has declined to pursue a criminal prosecution of the owner, who has told our field personnel that the firm is going out of business. We are taking steps at this time to revoke the

firearms manufacturer's license issued to this firm. As a result, we respectfully seek your permission to forego any attempts at this time gather the information you requested from this firm since these records are vital to the ongoing criminal investigation and consideration by the Grand Jury.

Sincerely yours,

REX D. DAVIS, *Director.*

Mr. DAVIS. I might say that, first, certainly we agreed that the accuracy in the manufacturing records is very essential to the success of our tracing operations. And, second, of course, we feel that they should be visited on a basis that will insure that accuracy.

As has been indicated, we are now trying to reconstruct from our records, from the records of the manufacturers, the frequency of visits to these manufacturers. My information is that we are still working on it, but it is somewhat difficult to do.

Mr. BARBOZA. Why did it require a letter from this Committee to get ATF on that track.

I wonder what will be found when we determine the state of the records of the other gun manufacturers. Apparently you have not reported to us yet concerning your inspections of those licenses.

Mr. MACDONALD. Could I just make kind of a speculative answer to that, and I will let Mr. Davis correct me if I am wrong.

I think that it at least explains how I think about the issue. The last ATF budget request that came up said that if we go to the President's legislation there will be about one-quarter as many dealers to inspect. But the inspection process will probably be twice as long, because there will be more of a check into background of financial capabilities.

Mr. BARBOZA. You are referring to the initial application?

Mr. MACDONALD. No, I am referring to all inspections. If you have only 35,000 inspections, you are inspecting 35,000 dealers. It appears to us—and I will let Mr. Davis comment on this—it appears to us that by reducing the number of dealers, we will have an inspection capability and fluidity or flexibility that will enable us to pick up those 30 manufacturers, as well as the reduced number of dealers.

I think the point that I made before goes also to this issue, but I will leave it to Mr. Davis.

Mr. BARBOZA. We have had long conversations with regional directors concerning the distributors. The distributor sells more guns than an ordinary dealer, and a manufacturer, of course, sells more guns than a distributor would sell.

Is there not in that order of things a priority for licenses you would inspect frequently and who you would want to know is or is not keeping adequate records?

Mr. MACDONALD. I suppose there is also a priority in the accuracy of the records kept by most manufacturers, as opposed to by most dealers.

You may want to comment on that, Mr. Davis.

Mr. DAVIS. We do impute a certain responsibility to manufacturers and distributors in the nature of their business, their business standing and things of this kind. And I would say that, by and large, that is a fair imputation. It was indicated, in the cases that you mentioned, that there were some inaccuracies in those manufacturers' records.

Again, we are, as a result of the committee's request, we are trying to reconstruct a record of our visits to these premises, so that we can

give the committee a more accurate picture of how often they are visited.

Mr. CONYERS. Before I turn this over to Mr. McClory, it seems as if you owe us some information from several months back, so please see if you can get it in.

Mr. DAVIS. I certainly will. And I will have to say it came as somewhat of a surprise to me that we had not responded.

Mr. CONYERS. I yield now to the gentleman from Illinois, Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

I think we should point out that, following enactment of the 1968 Gun Control Act, the Treasury Department took on an entirely new role with regard to the whole subject of policing the business of the manufacturing and the commerce between the manufacturers, the dealer, and the purchaser of firearms, long guns, and handguns. And you have done that on a very limited budget, and I think also consistent with a congressional philosophy that we wanted to maintain a very limited role at the Federal level.

I would assume that that general philosophy continues to prevail; in other words, that the major responsibility for control of handguns, particularly a handgun sold at retail, and the management of the handgun is basically a state and local responsibility, rather than a Federal responsibility.

Is that generally true?

Mr. MACDONALD. I think it is an accurate statement, with the qualification that we feel there are statutory deficiencies within the Gun Control Act of 1968, which should be addressed federally. And those are in the bill which I believe you have introduced, Mr. McClory, on behalf of the administration.

Mr. McCLORY. Yes.

Now, you have already requested and secured approval from the Office of Management and Budget of 500 additional inspectors or agents.

Mr. MACDONALD. Five hundred additional agents, and I believe 264 support personnel.

Mr. McCLORY. That is what I was going to ask.

In addition to the 250 agents, that means an addition of support personnel. Does that include increasing the staff in the tracing operation?

Mr. MACDONALD. Yes, it does.

Mr. McCLORY. I also noticed in your statement here today that you are indicating a plan to have a computer capability which you do not presently have that would further enhance your ability to handle the business and the trafficking in guns.

Mr. MACDONALD. That particularly pertains to licensees and the payments of their license fees, if I am not mistaken. That is what we are really addressing ourselves to.

Mr. DAVIS. Yes, sir. Mr. McClory, it would certainly serve a number of useful purposes. The computerization of the mass of information that we have available would permit us to more efficiently use our forces in terms of identifying questionable dealers, of showing where high crime areas and gun related crimes are. It also would permit us to generate information for planning and also information, of course,

for the use of Congress and the administration and for all related policies.

Mr. McCLORY. Are you intending to develop a capability to serve the tracing function?

Mr. DAVIS. Well, sir, yes, sir. We have, of course subject to the departmental policy, have considered asking manufacturers to submit their disposition records so that they could be computerized, therefore cutting down the amount of time it takes to trace a certain individual gun.

Mr. McCLORY. I think the events of the last 18 or 19 days have really focused the attention of the Nation on the need for far greater and far stronger gun control legislation than we have had, including a substantial enhancement of the Federal role.

It is really with that in mind that I have prepared and presented a comprehensive gun control bill, which would carry out many of the things that we are discussing here this morning, including a reduction in the total number of licensees, enhancing your capability with regard to the tracing operation, and either requiring the States and local departments of government to establish their own registration system or that we would have a Federal gun registration, handgun registration system, and also help carry out the President's recommendation, which is a sound one, which I understand was enacted into law in California yesterday. That is a waiting period, which gives an opportunity for the public and for the dealer to ascertain that the person who is applying for a gun is a responsible individual who meets the necessary basic minimum qualifications for such ownership.

The tragedy of a person having a gun taken away on one day and then the following day purchasing a gun and acquiring it immediately for use, such as apparently was done or allegedly was done in the alleged attempt on the President's life is really an unthinkable condition of our society today, that there would be no legal prohibition against that, and, really, with respect to the criminal misuse of firearms.

I have directed my entire bill—and, you know, I would like at this time to emphasize the importance of the responsible gun laws. Those that own long guns or pistols or the housewife that has a pistol in her night table, beside her bed or wherever, would support the kind of legislation which I am recommending and which I hope will come up for markup very soon.

I would just like to ask this one thing. Would you prepare and forward to me, not in extensive detail, but with as much detail as you can, some formal comments for the use of our committee on the legislation which I introduced on Monday?

Mr. MACDONALD. Technical analysis of the bill, as we see it fitting into other provisions, that sort of thing?

Mr. McCLORY. Well, yes. However, in practical aspects, I would like to have you point out any impracticability.

Mr. MACDONALD. Administrative problems?

Mr. McCLORY. If it is possible, I would like to have some kind of a general estimate of the cost of the registration program.

Mr. MACDONALD. Yes, sir. And, as you do point out, if, indeed, the weapon obtained in California was obtained without a waiting period, the administration bill and I assume your bill, both address themselves to that waiting period.

Mr. McCLORY. I do not think—see how you avoid the subject of licensing or some kind of owner identification if you require a waiting period. That is one of the aspects; I think we get into a question of semantics when we talk about registration and licensing, which we try to avoid, and try to get at the objectives of seeing that the person is responsible and knowing where that gun is if a crime is committed and the law enforcement officials want to identify the last legitimate owner of that gun.

Mr. MANN. Mr. Davis, in terms of the capability or the response of the administration and the Congress to situations, when did you become Director of the ATF?

Mr. DAVIS. When we became a separate bureau on July 1, 1972, I was appointed Acting Director, and in September 1972, I was confirmed as the permanent Director. I had been the Director of the Division prior to that time, prior to the time when we were separated from the Internal Revenue.

Mr. MANN. What was the effective date of the Gun Control Act of 1968?

Mr. DAVIS. It was November 1, 1968. There were various provisions, but the law provided for an amnesty period beginning November 1, 1968.

Mr. MANN. What I am going to refer to is perhaps a small point, but I think it is important. You have been talking about it. Everyone has been talking about it, the loophole in the 1968 act with reference to the limitations on the "Saturday night special."

Now, why did you not do something about it? It would take us 2 or 3 weeks to pass a corrective piece of legislation like that?

Mr. DAVIS. Speaking from our viewpoint, of course, we felt that we fully enforced the provisions of the Gun Control Act of 1968 which prevented the importation of handguns that were not suitable for or readily adaptable to sporting purposes.

In addition to that, we also, I would think, fully enforce provisions which prevented military surplus firearms from entering into this country, and we felt that that was the extent of the law that we could enforce, so that we felt that the provisions of the law were successful and accomplished the purpose.

Mr. MANN. Now, no one in your Department knew that the purpose of it was not being accomplished because of the implication of sending of parts into this country?

Mr. McCLORY. Will the gentleman yield? I think we should make the comment that the bill, the corrective bill, was before our committee and died in our committee in 1972. It passed the Senate and came before our committee.

I was on the subcommittee. I opposed killing the bill there, but that bill was killed by a majority of the members of the subcommittee in 1972.

Mr. MANN. I am glad I was not on the subcommittee.

Mr. CONYERS. Will the gentleman yield?

Mr. MANN. Yes.

Mr. CONYERS. I think you ought to indicate that none of us were on the subcommittee.

[General laughter.]

Mr. MANN. We are talking about our ability to respond to situations. Why did you not propose such a bill?

Mr. DAVIS. I do not recall that the Department had proposed such a bill in the past or not.

Mr. MACDONALD. I think that may somewhat be an unfair question to Director Davis. Policy questions, including proposed legislation, of course, fall within the ambit of the Treasury Department, and let me hasten to assure the subcommittee that I was not around in 1972 also, so I am not too familiar with what the Treasury Department's thinking was at that time, but Director Davis' job is to administer the law as best he can.

Mr. MANN. All right, let us move on to another matter.

You have now indicated that you had intended to do what the law would permit you to do and that is to improve the tracing capability by requiring Federal records on manufacturers, distributors, and dealers. Is that a correct statement?

Mr. MACDONALD. By putting ourselves in a position where we can assure that they are indeed complying with the law as it now exists, yes; in that sense, yes.

Mr. MANN. Your primary reason for not having done so before was budgetary, as well as what we all recognize, a perhaps lesser degree of concern about the problem.

Now, in this tracing capability, you are able now to trace a gun from the manufacturer to the distributor or dealer to the purchaser. Do you propose—and if you do not, how do you now accomplish a method of recordation of second sales, not through a dealer?

Mr. MACDONALD. Outside of the "Saturday night special" for title II weapons, which are already subject to registration, there is no proposal to trace the further transfer of a weapon past its first purchaser. There are laws that relate to sales across State lines.

Mr. MANN. So the administration is not proposing—of course, it would border on registration, as we know, but then your technique in doing it now is merely to go to the owner of record and inquire of him what he did with his gun and trace it in that fashion?

Mr. MACDONALD. Director Davis has something he would like to say.

Mr. DAVIS. Mr. Mann, this may be of interest to you in light of an earlier question, but ATF did in 1970 engage in a contract of the H. P. White Laboratories for the purpose of determining whether there were criteria that could be used for the control of "Saturday night special" or low-quality handguns in the United States, so I did want to indicate that we had done something, recognizing this was a problem.

Mr. MANN. Now, Mr. Macdonald, I would like to determine just what is proposed or what to do or what does an ATF inspector do to improve the recordkeeping of manufacturers? Do I understand that you do not propose requiring them to computerize all their records to a central location?

Mr. MACDONALD. That is correct.

Mr. DAVIS. We are considering exactly that right now.

Mr. MANN. Your plans in that direction are in the embryo stage?

Mr. DAVIS. Yes, sir. We have certainly, we will recommend to the Department of the Treasury that we—the firearms manufacturers forward to ATF their records of disposition so they can be computerized and, therefore, not only speed up our tracing, but also tell us something about the patterns of commerce in firearms which may be of

interest to the administration and Congress and, of course, all of this depends—since we are talking about 6,500,000 manufacturing a year—this would require a computer capability.

Mr. MANN. Well, if you had that capability it would be somewhat expensive, but it would have the effect of bypassing the manufacturer altogether when the actual tracing incident occurred.

Mr. DAVIS. Yes, sir, and we suspect that as the tracing activity grows, that from an economic standpoint it might be easier—from an economic standpoint on the manufacturer—than the present system whereby he has to each time a trace request is made of him, he has to have some employee go to the records and look up the disposition and then, you know, let us know what happens, so we would be doing essentially what we are doing now except we would have those records computerized, which would speed up the trace process very substantially.

Mr. MANN. Well, even though you refer to it as requiring a hand search, what has been your experience with reference to the time required for manufacturers to give you a response?

Mr. DAVIS. It varies a great deal, of course, on the size of the manufacturer. My understanding is that Colt, which is probably the largest manufacturer of weapons, certainly handguns, that it requires an employee of almost full time for that purpose, plus a certain amount of a supervisor's time.

Mr. MANN. Well, I know, but you described to us before the incident with reference to the New Orleans weapon where you found it in 20 minutes. What kind of typical response are you getting from manufacturers? When you call in how long before they pull their expert, the file clerk, before you get an answer?

Mr. DAVIS. Well, sir, we prioritize the request. In other words, certainly, if it was a high priority trace we would do it immediately, and I get an immediate response. On the other hand, if it is a low-power priority trace, it may take as long as a week to get a response, so it depends on the urgency of the request, but we can and do it in a very high priority situation in a very few minutes.

Mr. MANN. Are you telling me that even though the manufacturer has an archaic system of doing it, he can nevertheless do it rather quickly and he can do so in less than an hour?

Mr. DAVIS. I would say the traces that fall in the category I have described as urgent trace requests have been within an hour.

Mr. MANN. Thank you, Mr. Chairman.

Mr. CONYERS. Let us turn now to our friend from Ohio, Mr. Ashbrook.

Mr. ASHBROOK. Thank you, Mr. Chairman. I think, first, I would like to say for the record since the other point of view has been expressed that after hearing the abundance of editorials and statements in the last several days about the need for getting guns off the street, that I think the other point should be expressed.

If we got the guns off the street, we have the basic problems, the punks and the criminals are still there. The law-abiding citizen is not out on the streets right now with the guns. The law-abiding citizen is not the problem, and I think it is going to evolve in this Congress whether or not we are going to give in and let the criminals and the

radical elements run our country or whether the law-abiding citizen is going to be able to keep his freedom.

The militant Indians that roam the reservation, the SLA with their machineguns, the SDS with their dynamite would seem to me to be the problem, and, yet, for some reason or another we have a number of responses, calls for registration, confiscation of firearms from the average Americans.

So, I really want the record to show that not everybody on this committee believes we should go down that route. While recognizing the need, possibly, to extend some degree of Federal involvement as far as firearms is concerned, I certainly go back to my first basic point, the law-abiding citizen is not out on the streets, and I doubt that the streets of Detroit, Cleveland and any of our major cities would be safe if you took the guns out. You would still have the same criminals, muggers, and punks roaming the streets, so it is a more basic thing, in my judgment, than who has the guns and what they are doing with the guns.

Getting to the point of administration, I recognize and I would like to say for the record that amazingly enough, in listening to the inquiries, it almost sounds like you people are supposed to have the prime responsibility for crime.

I would like to let the record shows that you are only incidentally involved in the whole area of crime prevention, crime reduction and control, in the burgeoning crime in our country, and with that understanding and the recognition of your problem. The Treasury Department, after all, we are not talking about the Justice Department, we are talking to the Treasury Department. I would like to pose one question to Mr. Davis.

I think several months ago I asked you a question which brought a response. You are smart enough to know the Congress is considering registration, maybe at some future point even confiscation, of firearms. Judging by the figures that you are giving us to the administration of the 1968 law and the problems—and, again, I understand the problems—it is very easy to say that there are guns out there and we have got a few radicals. why did we not find that gun, but I think we are not realistically talking in terms, to be so ridiculous as to say we do not have a policeman at every intersection to enforce our highway laws, in effect, sometimes I think we are almost saying to you, somebody did something with one of the millions of guns, why did you not know or why did you not follow up on this. I do not think anybody expects that degree of administration or enforcement with the funds you have, but, putting it in that context and the problems you have now, escalating to a plateau of registration, what would be the cost be? And I know several months ago I asked you if your Department, as a part of the responsibility, you obviously know what is going on here, has considered the possible costs of a Federal law which would require registration. You indicated, yes, we have done some thought about that, and maybe we can come up with some figures.

I would like to ask you now if you have continued that thought and if you have come up with any of those figures?

Mr. DAVIS. Yes, sir. Several months ago, I suppose it was probably 2 years ago, they did constitute a committee within the Bureau to study all aspects of gun control reaching from existing law to con-

frontation with the compensation and so forth, and we do have that document, which I would be very happy to make available. I do not have it with me at the moment, but it does provide cost estimates of the various levels of control, and, again, I do not have it right at hand but I will be very happy to provide it to you.

Mr. ASHBROOK. Well, do you have off the top of your head what category, what range of billions of dollars we are talking about?

Mr. DAVIS. Yes, sir. The chairman of that committee is in the room, and I can ask him to step up.

Mr. CONYERS. If the gentleman from Ohio will yield, we do have a projection from ATF about the potential cost of registration of handguns. The total first year costs are \$35,630,000, and the annual costs after the first year would be about \$21,500,000.

Mr. ASHBROOK. You figure that is realistic data?

Mr. DAVIS. Yes, sir. We studied it quite carefully.

Mr. ASHBROOK. Of course, right now, we are talking about how woefully inadequate our funds are, and, again, we are not blaming you for that because we provide you the funds, but we continually hear it said in your testimony that the midwest region and other areas say we need more money, we need more money, and we go through the whole process that Mr. Macdonald has properly outlined, a wish list as against what the Congress will appropriate.

Right now you are not even close to having enough money to implement the 1968 law on the basis of your projections at that time. Would that not be correct?

Mr. MACDONALD. To go back to your prior question, Mr. Ashbrook, the cost of registration—there is always a question, a sort of open-ended question as to what the cost of enforcement of the registration will be.

Mr. ASHBROOK. That was my next point. I assume that you are basing your projection on a theory that 98 percent of Americans will register their firearms, if the law says they must register?

Mr. MACDONALD. The estimate that ATF submitted included an assumption of 500 agents for the purpose of enforcing the registration law; that is to say, for the purpose of going after people who do not register their weapons.

Mr. ASHBROOK. I am just trying to get some idea of the scope of the problem, because I think the great congressional problem we have is underestimating the cost, overestimating the results. Say you find, after the first year or so that not even 10 percent have registered, and you come before this committee again, and we start asking you how much it will cost to go out and find, one way or another, those 90 percent of the firearms. I wonder what kind of figure you could give us?

Mr. DAVIS. Well, sir, of course, that would result in the fact that it would reduce our administrative costs initially in registering weapons, but it would increase our enforcement costs, and it certainly would depend on the degree.

Mr. ASHBROOK. I think, by any estimate, it is a Herculean problem, would you not say?

I do know that to commercial random access to commercial computers has developed into a very fine degree. I know of a computer outfit, which I shall not name, which has the capability of reporting in its computers the location of every sewer pipe, every water pipe,

every electrical conduit, every cable within an urban county. The California Department of Motor Vehicles has data on every passenger vehicle, every motorcycle, van, bus, what-have-you, in the State of California, every driver's license; and that material is so available that it can be obtained by a traffic officer from the time that he radios in the license number, or whatever it is, from the time he stops the car. So I just cannot believe that the computer is our bottleneck here. I am afraid they are not being used right, but if they are being used right, and you need more help, please be specific and tell us, and I think this committee will help you.

Computers raise us a question. If you are going to put material in a computer, you have got to have something to put in there.

Now, I do not know what it is you want to computerize; if it is the registration of firearms, OK, let's say so. But there is no point in having computers unless you are going to register all the firearms. I do think that computers are better than 3 by 5 cards. That is really all they are in a modern, technological sense. If we are going to do some registering, then probably that is the best way to do it, rather than have us phone some manufacturer and ask him to pull out his old, thumbnail 3 by 5 card and tell you something.

Now, there is the only question. Here comes the only question. I wonder what is accomplished by tracing a firearm? You have a crime committed. You have not arrested anybody. The perpetrator is not recognized, but you do have a gun. I can see the validity there. You have found a gun, and you do not know who committed the crime, so you try to trace the gun backward, looking for a lead as to who may have perpetrated the crime.

About how many cases of that type do you get a year, where you are trying to trace the gun for the purpose of seeing who had it?

Mr. DAVIS. Yes, sir. We get quite a large number of guns that are found at the scene of a crime, where there is no suspect, and that many times, has just proved to be the essential evidence. To the committee, I have a very good example. There was a police officer killed in Philadelphia—this was about a year ago. A pistol was found about a block away from the body. Through ballistics, they proved that this pistol was the one that had killed the police officer. They asked us to trace the weapon. We did, to a dealer in Virginia. And from his records, we found out who purchased the gun.

By the police questioning the individual, he indicated to them that his brother had stolen it from him, and when they went to the brother, and after questioning—I assume under appropriate procedures, he admitted killing the police officer, and also an elderly couple, a couple of weeks before. So this is illustrative of the kind that—

We have another case in the State of Texas where a couple were found dead, with a gun by the body, and by tracing we did find out who the culprit was.

Now, even in cases where a person is suspected of a crime and the gun is found on him; in other words, he is in possession of it, or it is nearby, it sometimes becomes very critical additional evidence that is useful in the prosecution of that individual.

Mr. DANIELSON. My question was to about how many cases of that first type do you have? Do you have any kind of figures on that?

Mr. DAVIS. No, sir, but we hope to in the near future. The Police Foundation is doing a study.

Mr. DANIELSON. That would have validity, and it would be a justification. I am kind of interested in the number of cases.

My last point here—I notice from your statement that your budget on firearms control, the money on firearms control from page 5 of your statement went up from \$1.3 million to \$71.5 million in the fiscal years 1970-76. That is an increase of 5,500 percent.

It is on page 5, paragraph 3 of your statement. You stated that it would cost \$35 million estimate to register firearms and then \$21 million for a year thereafter. Would that be in addition to the \$71.5 million?

Mr. MACDONALD. I am sorry, I do not have the same copy of the statement that you are working from, Mr. Danielson. As one of the corrections I had on my copy for the record I am just trying to find it in my copy—\$17.3 million.

Mr. DANIELSON. That cuts me down quite a ways, but even so——

Mr. MACDONALD. To \$73.1 million.

Mr. DANIELSON. From what?

Mr. MACDONALD. \$17.3 million to \$73.1 million.

Mr. DAVIS. I might just point out that in reaching those figures, we estimated that there will be 50 percent compliance in the 1 year, and then, after the end of 5 years, with enforcement results, there will be 75 percent compliance. So that, as you know, we estimate that there are 40 million handguns in the United States, so what we would be saying then is that the 1 year that there would be voluntary registration of 20 million and then after that about 5 million a year, until there was 75 percent compliance in the country.

Mr. ASHBROOK. Do you think you can process 25 million gun registrations for \$35 million?

Mr. DAVIS. 20 million; yes, sir. Of course, it would depend somewhat on how the act or the law was enacted. If we could, for example, depend on the use of some State and local law organizations to effect registration, either on a reimbursable basis or so forth, then that would be one effect. If AFT, of course, had to do the entire registration itself, then it would be, obviously, a different kind of cost figure.

Arriving at these, this committee spent a great deal of time. They actually went down to the point of how much it would cost to handle each piece of paper that would be involved in this process, and costing it out step-by-step.

Mr. ASHBROOK. I have great respect for you, Mr. Davis, and the way you have handled your function, but I would merely say—I do not say it facetiously—I hope I am not in Congress when you get back and start telling the woes of trying to implement a law like that that never gets back on the books. And I say that charitably.

Thank you, Mr. Chairman.

Mr. CONYERS. Mr. Danielson.

Mr. DANIELSON. Thank you, Mr. Chairman.

Thank you, gentlemen.

I have a couple of comments, and one or two questions. One. I want to tell you that I concur with the comments of my colleague, Mr. McClory on our trying to not discuss facts which are involved in the

current criminal prosecutions. My criticism of you only is to the extent which you have already done so.

For many years, we have witnessed criminal prosecution after criminal prosecution, complicated and oftentimes defeated, simply due to undue discussion of the facts in advance of the trial. And outside of court, we will have to remember that these matters I am now talking about are the three most current one, the *Fromme* case, the *Hearst* case, and the *Moore* case, I guess it is, are not before the Congress. They are no longer in the hands of the executive. They are in the courts. And they should be handled by the courts.

Years ago, when I was in the law enforcement business, we had a standard response to inquiries from the press, namely, no comment. I still think that is the best response. I have no complaint with the press trying to dig up whatever they can in order to satisfy the public fascination with the details of what takes place in crime, but I do find fault with law enforcement agencies feeling that they are compelled to discuss. So I hope that you will continue to hold fast on discussing as little as possible; in fact, intensify that effort.

In your statement, you refer to several points, and most of them I agree with, and I am interested in expanding a little bit on your computer section of your statement. You told us that you have no computer capacity of your own general purpose, but you do have some access to the Treasury enforcement communications system computers; also to those of the Internal Revenue Service; also to the Office of Computer Science and the Office of the Secretary; and you have a small laboratory computer of your own. And you have four computer specialists.

Now, I will not quarrel with your statement that you can or cannot effectively discharge your responsibilities at this amount of capability, but I hope you will do this. I hope that you and the people in your department, your bureau, who have the understanding and knowledge to do so, will make some concrete, specific recommendations to the subcommittee as to what kind of computer capability you need.

I think this committee would be glad to authorize the expenditure of whatever reasonable sum is necessary for that purpose, and I think it would be a fairly reasonable sum. You might even have it here if you can get your superiors to cooperate with you, and maybe we can help in that respect.

Mr. DANIELSON. \$17.3 to what?

Mr. MACDONALD. To \$73.1 million. The percentages remain the same.

Mr. DANIELSON. No; the percentage will not remain the same by a long shot. It is going to come down to about 1500 percent.

Mr. MACDONALD. I am sorry, the percentages later on in that paragraph which refer to fiscal 1970 to 1976.

Mr. DANIELSON. That point is not that critical. Will the \$35 million for gun registration be in addition to that sum?

Mr. MACDONALD. Yes; it would.

Mr. DANIELSON. Then the last thing will be another point here. On February 20, 1975, in the hearing before this committee on the testimony by my colleague, Mr. Mann, and second, a colloquy with Mr. Sax of Florida, the point was raised that in addition to registering serial

numbers and the like weapons, it might be wise to register a ballistic profile as a means of identification, so that if an expended slug, a bullet, were found, you can move back on the profile.

At that time I raised the point that in my opinion all of this was a fascinating concept, yet I did not think it would be effective. I did at that time write a day after to Clarence M. Kelley, dated March 10, 1975, inquiring as to whether that would be a valid form of identification for registration purposes and received back a letter dated March 17, 1975, from Mr. Kelley explaining why it would not, and I ask unanimous consent that those two letters be made a part of the record and a part of my colloquy.

Mr. CONYERS. Without objection, it is so ordered.

[The material referred to follows:]

MARCH 10, 1975.

CLARENCE M. KELLEY,
Director, Federal Bureau of Investigation,
Washington, D.C.

DEAR MR. KELLEY: I am a member of the Subcommittee on Crime of the House Committee on the Judiciary, which is presently conducting hearings on the general subject of gun control. It has occurred to me that you may be able to provide me, and the subcommittee, with an item of information of interest to our study.

During the hearings the subject of gun registration is before us constantly. In that connection, it is sometimes proposed that, in addition to serial numbers and other traditional identifying data, perhaps it would be wise to include what has been referred to as a "ballistics profile". By that it is meant that there be a record made of the pattern which a given firearm would make upon a projectile fired through it, as well as any other unique characteristics which a given firearm might implant upon the cartridge case.

I seem to recall that when I was in the Bureau years ago, Frank Baughman, or someone else from the Lab, in the course of a lecture told us of the potential of firearms identification through ballistics examinations, but mentioned that if a large number of projectiles were fired through a given firearm, the identifying characteristics imparted to the projectiles would gradually tend to change, due to the wear and friction between the projectile and the inner surfaces of the firearm.

I would greatly appreciate, and I request that, if possible, you provide me with your comments and accurate information on the above subject. If you would prefer to have a representative from the Laboratory testify personally before the Subcommittee, I am sure that I can arrange for that.

With best wishes, I am

Sincerely yours,

GEORGE E. DANIELSON,
Member of Congress.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., March 17, 1975.

HON. GEORGE E. DANIELSON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DANIELSON: In your letter of March 10, 1975, you inquired concerning the possibility of establishing a file of test bullets and cartridge cases as a "ballistics profile" representing firearms manufacturers' products.

Throughout the years it has been suggested that such a file might be established, however, for a number of reasons it is not feasible to maintain such a file.

The marks on bullets fall into two distinct categories referred to as class characteristics and individual characteristics. Class characteristics consist primarily of caliber, number of lands and grooves, direction of rifling twist and widths of lands and grooves. The individual characteristics are those microscopic markings which are characteristic of the particular barrel from which a bullet was fired.

Also, class characteristics are useful in establishing the possible manufacturer or the medium involved. In many instances the same class characteristics are witnessed by more than one manufacturer.

The individual characteristics of the barrel produced during manufacture change significantly during the lifetime of a gun due to a number of factors, such as wear through shooting, improper cleaning, corrosion and rust. Because of these factors, a test bullet obtained at the time of manufacture would not be representative of a gun throughout its useful life.

The microscopic marks produced at the time a cartridge is fired in a firearm can be identified with a particular weapon. Generally these markings do not change as rapidly, but are subject to change and, hence, do not remain static throughout the lifetime of a gun. Therefore, a file of cartridge cases would have similar limitations.

On the basis of current technology, the procedure to associate a questioned bullet with a test bullet would require microscopic comparison of the individual characteristics on the questioned bullet with individual marks on "profile" test bullets which possess the same class characteristics. For an examiner to make a microscopic comparison of only one questioned bullet with the hundreds of thousands of "profile" bullets having the same class characteristics would be physically unrealistic if not actually impossible due to the time involved.

Numerous studies have been made directed toward the computerization of the microscopic marks on bullets to reduce the examination time, but no technically feasible system has been devised to date. The Bureau of Alcohol, Tobacco and Firearms, United States Treasury Department, estimates that approximately 7 million firearms were manufactured and/or imported into the United States during 1974. Of that number approximately 2,300,000 were handguns. When it is realized that thousands of questioned bullets are recovered each year, the immensity of the difficulties encountered in establishing and using a "ballistics profile" becomes apparent.

It is assumed that the foregoing information will be sufficient for your needs and that it will not be necessary for an FBI representative to testify before your Subcommittee.

Sincerely yours,

CLARENCE M. KELLEY,
Director.

Mr. DANIELSON. That is all I have.

Mr. CONYERS. Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman. Thank you, gentlemen, for your testimony.

As you can see, when you get to me, you are almost to the end. I feel like the lone end on the Eagles football team. It sounds like it is philosophy time at the ranch, so let me just get a few good notes and a few bad notes.

First of all, I could not agree with the colloquy that you had with Mr. McClory. I believe that the Secret Service had done a good job. I think with the tools that we furnish them that they have done an outstanding job, and we seem to have a rather high degree of unrest today, and the job is very difficult to try to protect our protectees. That was the bad note to it. There is always a little bad news with good news, and that is, I think we have had a lot of rhetoric over the years about crime on the streets, and just how we address the problem, and I am not sure we really have come to grips with the problem yet.

Now, I do not want to embarrass you because I think I would embarrass you if I asked you how much cooperation there is between your agency and other law enforcement agencies. I suspect that as usual there is very little. I see the Attorney General making statements that would indicate that he has a philosophy that is not shared by the administration necessarily, that may be just a little different from the philosophy of the Treasury Department, and as you can tell by the discussions here today, there are great diversions of views among the

Members of the Congress, not just on this committee, and frankly I do not think from my own standpoint that those that advocate passing out machine guns as their constitutional right are right and those that advocate the confiscation of all handguns are right.

I think that in between lies the answer, and you know, I just am appalled to think that since 1968 we have been aware of all the shortcomings of the 1968 Gun Control Law, and we have not even tried to patch up the little problems, the importation of part problem. I am appalled to hear the Treasury today and the administration suggest that we should not take the tracing technique beyond the first purchaser.

You know, I just think we are going ring around the rosy as usual. Now, we have the resources, I think, in this country to try to realistically address the crime problem, and I think the approach has to be a many-fold approach. I do not think that registration is going to be the cure-all because I think we have some other enforcement problems. I think plea bargaining has worked to our detriment. There are so many people being cut loose today that are caught with handguns because of a court backlog, because the assignment judges want to see the list move a little faster.

Our penal system is overcrowded, so we are cutting people loose time and time again that have demonstrated they are antisocial, that they are going to continue using the weapon as long as they can get away with it.

And I suspect that if we took the administration approach at the present time to handgun control, we would not have really prevented the Fromme incident or the Moore incident. I suspect that they would fall within the category of the "Saturday night special," and I suspect, you know, that our trying to find what is a "Saturday night special" and use that as a criteria is again a cop-out.

So I do not understand, first of all, why we should not be talking about where we want to go with registration. Do we really feel that registration is needed, and if so, how can we not say that we should, at the very minimum, be extending tracing so that we have a tool so that law enforcement people can realistically trace weapons?

Now, I served in the prosecutor's office for 10 years, and I come just freshly from the pits in trying cases, and one of the biggest frustrations is often trying to trace weapons. Now, law enforcement people do not even know you exist half of the time, is that not correct? They do not even know that there is such a thing as ATF that traces weapons. Now, how can we really address the tracing problem—and it is a valuable tool—unless we extend tracing to the second purchaser, to the third purchaser, to the transferees on down the line so we know who actually possesses and has possessed a weapon?

Let us answer that question for starters.

Mr. MACDONALD. As long as it is philosophy time, Mr. Hughes, I would like to say first of all that our relationship with other law enforcement agencies, and particularly with the Justice Department, has improved markedly over the last at least year-and-a-half or so. One reason that we have Jim Featherstone as our Deputy for Enforcement is because he was with the Justice Department as Deputy Chief of the Organized Crime and Racketeering Section, and I think our efforts in that regard really—I would not want to leave your state-

ment just on the record as it is. I think we are getting better in that regard.

Mr. HUGHES. That is encouraging.

Mr. MACDONALD. The people—I should say, the reason why full registration is not thought to be necessarily desirable at this time I think can best be expressed by saying that there is a fear that the blunting effect of the sudden imposition of this requirement, may create an illegal traffic in firearms which would rival the illegal traffic in liquor in the 1920's.

It is interesting that on the floor of the House of Representatives on December 17, 1917, when prohibition was being discussed, Congressman Webb of North Carolina made this statement:

The saloons must be destroyed, and I hope that today's epical vote will be the beginning of this destruction. We have learned that liquor and liquor traffic are the greatest crime breeders known since the dawn of civilization. Yet 80 percent of the inmates of our penitentiaries were imprisoned entirely or partly on account of intoxicating liquors. The idleness, disorder, pauperism, and crime existing in the country are largely traceable to the general use of intoxicating liquor, so with all these answered indictments of the liquor traffic before us, tell me why one cancerous root of it should be left anywhere within our national confines.

Let us wage a ceaseless battle and never sheath our swords until our constitutional amendment is firmly adopted.

Mr. McCLODY. Will the gentleman yield?

Mr. HUGHES. I will in just a second.

Mr. MACDONALD. I am not saying that there is an analogy there, but I am also not saying that there is not.

[General laughter.]

Mr. HUGHES. I do not know what experience you have had. Have you conducted any polling in this country as to how people generally feel?

Mr. MACDONALD. I have.

Mr. HUGHES. I have, and I have an area that is extremely rural, and then we have a great many hunters who value the possession of their weapons, and my people overwhelmingly feel that there has to be some degree of gun control in my district and I was amazed by the results of my poll.

I do not think you can compare, you know, alcoholic beverages, in that period of time with the problems of a gun. How many more deaths have to occur, how many more assassination attempts, how far do we have to go with the erosion that is taking place in the system before we face up to the problem?

The American public is ahead of us. I think they are there. We just have not arrived with them yet. I will be happy to yield to my colleague.

Mr. McCLODY. I thank the gentleman for yielding because I cannot think of any statement which is more irrelevant to the subject of registration than the statement that you gave us, Mr. Macdonald.

The theory of registration is not the theory of confiscation. It is not the theory of elimination of the handgun. It is the theory—the theory is to detect in the hands of the criminal the whereabouts of the handgun, to know that the handgun does not remain in the hands of the criminal, of the dope addict, or the person that is not just viably authorized to have a gun, and whenever a crime is committed with a

handgun that the first thing, capability cannot be followed only to the first legitimate purchaser, but so that it can be traced to the brother or to some person beyond the first purchaser, and also to require that information with respect to lost or stolen weapons be reported so that the registration system has that information which is vital in connection with crime.

Mr. HUGHES. I have to recapture some of my time.

Mr. ASHBROOK. Will you yield?

Mr. HUGHES. I will be happy to yield to my colleague.

Mr. ASHBROOK. I have but one question of my friend from Illinois concerning his statement that the theory of registration is to detect in the hands of the criminal the whereabouts of the gun. Is he talking about only registering firearms for known criminals?

Mr. McCLORY. No; what I am saying is that the person who is a law-abiding citizen would want to know that if his gun is taken and used in connection with a crime that he is protected as well as the person who is the criminal and uses that gun, and the registration works both ways. It works in support of the law-abiding community, and directs the detection of the criminal misuse of a weapon.

Mr. HUGHES. I could not agree more with Mr. McClory on that subject, and I am one member that is either going to vote to do away with the tracing, the charade we are going through, or make it realistic. It just does not make sense to me to spend the kind of money that should be spent on a tracing system unless we put it on the computer and unless we extend it so that it makes some good sense, that we can actually do the tracing in a realistic way and provide law enforcement people with the tools they need.

Now, I was not here in 1968 or 1970 or 1972, and apparently nobody else was. I do not know who was here, but I want to tell you just from looking at the history of the 1968 gun control act, we seem to have done everything possible, both from an administrative and legislative standpoint to make sure it does not work, and I am on another subcommittee and I get into the same thing. We pass legislation, it seems, and we find that the way it is enforced often is just contrary and counterproductive to the legislative intent.

Now, I only hope that Treasury feels the same way, and we can, perhaps, at the briefing that is going to take place shortly, because I am concerned about some of the things that have happened with recent incidents in the last 3 weeks and how handguns play a role. I am interested in knowing, first of all, whether our present techniques would have contributed, perhaps, to the problem if, in fact, we had some other realistic tools at our disposal, whether the Secret Service could have prevented, you know, what occurred if we provided them with more tools, and I am happy to hear that the Secret Service is doing a little self-analysis to see how we can better protect the President, Vice President, and all those that have to be protected in these trying times.

Mr. MACDONALD. I would like to address myself, if I could, to Mr. McClory. I agree with you that registration is certainly not confiscation, and we are down right now to the nub of the problem and the basic philosophical outlook toward the world. We find a fact when we increase our regulatory efforts that things like thefts of

firearms from manufacturers and shipments increase. Well, that would indicate that we should create a security program in that area, but after you have tried to cover every base you begin to wonder, you cannot help but begin to wonder whether the answer to the problem is not the removal of guns from people, but a sort of reorientation of the moral fiber of our own society, an increase, perhaps, in individual responsibility. Even if society is, in part, at fault for our present predicament, it may be that we should hold individuals responsible for their own acts. This is the point I was trying to make.

We feel that if a registration program is imposed—and I say, once again, nobody is clairvoyant—we do feel that it might well increase our enforcement problems to such a degree that we are creating another line of business for organized crime, namely, traffic in weaponry.

Mr. HUGHES. I think we are right on the right track. I think we talked about reducing the number of dealers from 140,000 down to a quarter of that size and get rid of the people. We have a dealer in my area that has, that sells guns in connection with his cafe. Well, you know, it is just absolutely absurd, first of all, to try to police that with all the problems that that presents. Beefing up the staff to a \$15 million supplemental has been requested and I think that is a step in the right direction, but it has to be more than that. It has to be, I think, a well-balanced program.

The judiciary is going to have to measure up to its responsibility when it comes to meting out the kind of sentences that will provide the deterrents needed. That is as much of a part of what we need. The resurgence of morality that you are talking about is, indeed, unfortunate. It is going to require, perhaps, an educational campaign, but it is going to require more of a commitment than we made up to date. It is going to require more than the rhetoric we have heard for a long time, and I just doubt that the administration and Members of Congress, you know, will join together in trying to provide the kind of gun control that is needed in this country.

I realize it is an emotional issue, but this member—and I would say that most members of this committee—do not want to confiscate handguns from those that legitimately have a right to use a handgun, and that is not the thrust of the kind of legislation, first of all, that is saleable in his country and that is needed in this country. It seems to me that one of the things that is basic to it is some form of realistic tracing that is going to provide law enforcement with the tools that we need to try to address the present day problems.

Thank you, Mr. Chairman.

Mr. CONYERS. Secretary Macdonald, is it still your conception that the Gun Control Act of 1968 requires the Congress to approve any computer centralization of manufacturer and dealer records?

Mr. MACDONALD. No, sir, not the act, itself.

Mr. CONYERS. Well, then, do you have some particular objection to the increased efficiency that would come by the computerization process that has been much discussed at this hearing?

Mr. MACDONALD. I think it depends on what we are computerizing.

Mr. CONYERS. I said manufacturer and dealers sales records.

Mr. MACDONALD. I am not sure that I can speak for the administration in that regard. I think that if you look at the past history of our experience of going before our Appropriations Committee, that

this past history, has lead us to believe that some expression of approval, some expression of approval from Congress is at least highly desirable, laying aside the legality of our being able to do this.

Mr. CONYERS. You are not passing the buck on to the Congress by any chance, are you? We gave you the authority 7 years ago. Now, you are saying that your experience requires that we give you some subsequent authority to do what already is in the law.

Well, let me ask you about this Packwood letter.

Director Davis, the last paragraph says, "During the study of our needs, we also established a level of positions and money necessary, but we were to do nothing in the way of new programs, but simply continued our current activities, but placed in the field the personnel we feel are needed. For your information, this figure is 2,384 positions, with a budget of \$70,118,000. This would, of course, be over and above the fiscal 1976 figures quoted above."

Now, if we are talking about a \$73 million increase, picking up our colleague from California's point, and here the director of ATF says we need \$70 million more and 2,300 more men, I think that is a disparity of enormous magnitude which fully justifies coming back and talking about it.

Now, this has not been resolved in the course of these hearings, Mr. Secretary, and it is still outstanding. We have a director in the field and on the job whose comments in this letter are fully supplemented by all the regional personnel, and here you are telling us that we have got a new ball game and we really do not need that at all.

Mr. CONYERS. I would rather the Secretary resolve it. I do not think we need Mr. Davis to verbalize on this. My question is to you, Mr. Secretary, not to Mr. Davis.

Mr. MACDONALD. I understand that I have seen this letter before. I have not analyzed it. I have not had our budget people analyze it, so I really have no —

Mr. CONYERS. Please explain the budgetary process in the Bureau of Alcohol, Tobacco, and Firearms?

Mr. MACDONALD. The bureau prepares its proposed budget, then sends it to the Treasury Department.

Mr. CONYERS. Who in the bureau?

Mr. DAVIS. Our budget officer, Mr. Chairman, prepares the figures with input from operating officials, and then, of course, it is reviewed at the director's level.

Mr. CONYERS. Who are the personnel in the ATF?

Mr. DAVIS. Our budget officer, who is in the room, Miss Audrey Dysland.

Mr. CONYERS. Who else?

Mr. DAVIS. And of course, the assistant. Since the mechanics, of course, our assistant director for administration, and the head of our fiscal division.

Mr. CONYERS. What about yourself?

Mr. DAVIS. Yes, sir. I am it in the mechanics. Now, of course, in the preparation of material—in other words, the estimates and things of this kind, then all the executive staff of the bureau are involved in terms of saying the programs we should be doing, and how much we need to do it, and then, of course, that goes through a process at my level and saying, wait a minute. You are too much here. Have you thought about

this? And of course, we do engage in long-range planning, and so forth.

Mr. CONYERS. Then it goes upstairs to the Treasury level. Is that right?

Mr. DAVIS. Yes, sir. Our request is submitted to the Department of the Treasury.

Mr. CONYERS. Well, this letter that you wrote as of 3 or 4 months ago represented your estimate of what was needed, and as I read it, it is \$17 million higher than what the Treasury is thinking that you ought to have. That is what brought us here today from the earlier hearing, and it leaves me puzzled that there could be this wide a discrepancy as to what is going on in the bureau as between the director and the assistant secretary of the Treasury.

Let me ask you another question.

Mr. MACDONALD. I certainly do not blame him for asking, but that does not mean that we agree with him.

Mr. CONYERS. Let's talk a little bit about the authority that you have to require a method of serializing weapons, which is the basis of all the talk about tracing. Have you issued such rules and regulations at this point?

Mr. DAVIS. So far as the serialization of weapons?

Mr. CONYERS. Yes.

Mr. DAVIS. Yes, sir. The 1968 Gun Control Act itself requires serialization of weapons.

Mr. CONYERS. Right. But what requirements have you imposed upon the manufacturers, in view of their own testimony that they sometimes issue duplicative numbers, which make firearms difficult to trace?

Mr. DAVIS. We occasionally do run into duplicate serial numbers, and we, of course, take corrective action with the manufacturer when that occurs.

Mr. CONYERS. What are the regulations with regard to how manufacturers are to proceed in serializing weapons they produce? Do you have them?

Mr. DAVIS. Yes, sir. We have, of course, regulations regarding the manufacturer. If I can defer to our assistant chief counsel, he may be more specific, Mr. Patterson.

Mr. CONYERS. Will you come forward, Mr. Patterson.

Do you understand the gist of the question?

Mr. PATTERSON. Would you repeat that again, please?

Mr. CONYERS. Why is it that there have been no regulations issued to the 32 manufacturers with regard to eliminating the duplications and the problems that occur in their serialization of handguns they manufacture and distribute in the United States?

Mr. PATTERSON. Mr. Chairman, the regulations which are promulgated under the Gun Control Act require an individual identification on every firearm manufactured. This is a unique number on each firearm. And I do not know of any problems with respect to that, other than what Mr. Davis said with regard to an inadvertent duplication by a manufacturer.

Mr. CONYERS. Does it tell them where it should be put on the gun?

Mr. PATTERSON. Yes, sir. We require that that serial number be placed on the receiver of the firearm.

Mr. CONYERS. Does it tell what size it should be?

Mr. PATTERSON. No, sir. I do not believe it is directed in size.

Mr. CONYERS. Are there any problems or are there not? It is my impression that there are.

Mr. PATTERSON. Mr. Chairman, as far as I know, there have been no problems since the gun's manufacture after the Gun Control Act of 1968, which affects the tracing of that weapon due to either duplication of serial numbers or illegible numbers on the gun.

Mr. CONYERS. What about the fact that any manufacturer could use the same set of numbers, and that has happened, has it not?

Mr. DAVIS. Well, sir, of course, that really would not make that much difference, because the other identifying information is on the weapon, such as the name of the manufacturer, the place of the manufacture, so that, taken in association with the serial number, would prevent the interference with trace on the basis of duplicate serial numbers.

Mr. CONYERS. So there is no serious problem?

Mr. DAVIS. No, sir. Not in the case, with respect to the serialization.

Now, you know, we have had inadvertent runs of duplicate serial numbers by the same manufacturer, and whenever we discover this, of course, we take immediate action. If it is possible, we have them recalled, and so forth.

Mr. CONYERS. So you see no necessity at this point to issue any more specific regulations to the gun manufacturers?

Mr. DAVIS. No, sir. From my knowledge that our tracing is not affected adversely in any significant degree by the serialization requirements.

Mr. CONYERS. Is there a uniform system for the identification of weapons?

Mr. DAVIS. Yes, sir, if you mean —

Mr. CONYERS. Is there a prescribed uniform system of serializing guns manufactured in the United States?

Mr. DAVIS. No, sir. The regulations themselves require, of course, that the serial number, that a different serial number be used on each gun of the same model.

Mr. McCLORY. Will the Chairman yield? You could improve the tracing capability, could you not, by directing and mandating a uniform serialization of all firearms, and include sufficient identification in the serial number? You include the name of the manufacturer, and avoid any possible duplication or uncertainty?

Mr. DAVIS. Yes, sir. I think that is a fair statement. Any additional information that we could require on a gun certainly would increase the accuracy of the trace.

Mr. McCLORY. You are not mandated to do that now, but we could, if we put that in legislation, you could follow through on that?

Mr. DAVIS. Yes, sir.

Mr. ASHBROOK. Mr. Chairman, I would merely like to indicate, I think the Treasury Department, particularly Mr. Davis' division, is in rather what you call a catch-22 situation. From the very beginning when I asked you a question, you gave the standard separation of powers answer that you are not really supposed to come up on the Hill and criticize the Congress. But you all understand every Member of Congress on this committee that I have been listening to is criticizing the 1968 Act that we passed, and by our own admission, have done nothing to remedy the defects.

And yet, we cannot put you in a catch-22 situation, criticizing your administration of an imperfect law that we passed, that we have not seen fit to change.

I, at least, recognize that you are in that position. You are not going to come up here and tell us what a bum job we did, and yet, we sit back and tell you what a bum job you are doing administering a bum law that we passed. Maybe to commiserate with your problem to understand the separation of powers argument which I sometimes said and I said the same thing to Commissioner Alexander in the IRS. I will never forget the answer he gave. I said, well, Mr. Alexander, why do you not tell us exactly what you want to criticize? And he said, well, let's remember one thing; you are sitting up there, and I am sitting down there. And that is often necessary to put it in its perspective. I sometimes wish the Treasury Department and you would come up here and criticize us for what we do, for the things we make, for omissions, for the errors, where it is almost impossible to implement our laws.

But I guess I recognize that part of the game is the Executive is not going to do that, but I would just simply like you to know that one member recognizes that you are——

Mr. CONYERS. Mr. Secretary, did you know that the ATF in 1972 loaned men to the Secret Service to help the President, help provide protection for the President?

Mr. MACDONALD. Yes.

Mr. CONYERS. How many?

Mr. MACDONALD. I do not know.

We will have to supply that supplemental.

Mr. DAVIS. It was several hundred man-days.

Mr. CONYERS. We would like to get that information, because I think it figures importantly in your projections in the personnel placement in the coming fiscal year.

Let me just ask a couple of questions about the bill that has been proffered by the administration to this committee.

Mr. Secretary, I assume that you were a part of those deliberations?

Mr. MACDONALD. Yes, sir.

Mr. CONYERS. And who else was?

Mr. MACDONALD. The representatives of the Justice Department and the Domestic Council.

Mr. CONYERS. The Domestic Council?

Mr. MACDONALD. Right.

Mr. CONYERS. And the Domestic Council comprises who?

Just to refresh our memories.

Mr. MACDONALD. I think the Domestic Council is theoretically run by the Cabinet. Its head is the Vice President and its director is James Cannon, and the associate director in charge of this particular area is Dick Parsons.

Mr. CONYERS. It includes, in short, all the Cabinet plus other key members of the administration, headed up by the Vice President of the United States?

Mr. MACDONALD. Yes.

Mr. CONYERS. How long were they involved, if you can set any formulation?

Mr. MACDONALD. We dealt—the laboring oar was borne by Dick Parsons, and our contact was all with Dick Parsons.

Mr. CONYERS. For what period of time?

Mr. MACDONALD. Over several months. There were just a number of meetings, and then there were some meetings over at the Justice Department with Justice Department and Treasury. There was at least one meeting with just Justice Department and Treasury personnel, at which we had some U.S. attorneys come in and give their views on the issue.

Mr. CONYERS. I might, for your information—well, I think we have mentioned it before. Mr. McClory and I met with the newly sworn-in Attorney General almost the same week that he took office on, obviously, this subject. So that it was this spring that the concentration and the formulation of this legislation began.

Mr. MACDONALD. Yes.

Mr. CONYERS. The reason I ask that is that it was my impression that there was an ongoing team studying this program for a great deal of time preceding the actual concentration that you suggest.

Mr. MACDONALD. Well, we at Treasury, internally, felt that there were amendments needed to the Gun Control Act of 1968 and started to develop that, even in the last Congress. We asked for ideas and drafts from ATF and, I believe, ATF has probably looked at this problem even before I was aware of it. This then became part of a larger input.

Mr. CONYERS. Was a factoring criteria considered the essential difficulty in these deliberations?

Mr. McCLODY. Let me interpose this question, Mr. Chairman.

I assume that these are private conversations or deliberations with the executive branch in the formulation of legislation. I question the extent to which we want to inquire into this.

Mr. CONYERS. If they are confidential deliberations with some secrecy involved in them, please, I certainly do not want to get into White House secrets.

Mr. MACDONALD. We are not—I will be happy to try to answer the question.

There were differences, as I recall it, of opinion in that area, defining the Saturday night special, as there were several other areas.

Mr. CONYERS. It would seem to me—and this is a rather cursory examination of the bill—that the factoring criteria and making of the Saturday night special was the key feature around which other important considerations had been attached.

Mr. MACDONALD. I do not think I would agree with that characterization. I think we—at least at Treasury, and I am not sure, I cannot speak for Justice or either for the Domestic Council. We considered the key provision to be the dealer licensing amendments.

That to us was the best means of trying to get our arms around gun traffic without trying to stamp down on every aspect of gun ownership in such a way that we could get the result without making it seemingly a total control over people's perceived rights, which might cause a repercussion and backlash.

Mr. CONYERS. Were there other people involved in it, not in the Cabinet and not on the Domestic Relations Council?

Mr. MACDONALD. And not in Treasury, not in Justice?

Mr. CONYERS. Not government people.

For example, in 1971, in developing the factoring criteria around the 1968 Act, we had people in from the White laboratories, we had a representative from the Mauser Works of West Germany, we had John Richards of Potomac Arms Corp. in Alexandria, who were all part of the advisory panel working on that.

My question, obviously, is, were there such persons involved?

Mr. MACDONALD. I do not think there were. I think at the ultimate deliberations, when we were getting right down to the nitty-gritty, I do not recall there being any outside people at that level. However, I have myself talked to several people and have gotten their ideas, outside of government.

Mr. CONYERS. There is nothing improper in discussing with industry spokesmen and representatives about the formulation of a bill that is going to impact on them. They were named to the panel in 1968, which ones had been consulted.

Mr. MACDONALD. I have not talked with gun manufacturers at all. I talked with a gentleman in Chicago who used to be a law partner of mine, who wrote a report on gun violence, a fellow named George Newton, and with women who are a part of the Committee for Hand Gun Control. And I am running out, also working out of Chicago on people like that.

Mr. McCLORY. Mr. Chairman, I raise the question—there is a quorum call. I move that we recess, at least until we have an opportunity to respond to the quorum call. I make it a point of order.

Mr. CONYERS. There is no necessity to do that.

The subcommittee will recess until immediately after this quorum. [A brief recess was taken.]

Mr. CONYERS. Mr. Secretary, a few more questions without trying to keep you too long.

The impression that I have received from your testimony in connection with how the Domestic Council and many other Government agencies participated in formulating the bill is that there were no industry spokesmen or representatives involved?

Mr. MACDONALD. I did not mean to say that. By industry spokesmen, I take it you are talking about gun manufacturers?

Mr. CONYERS. Gun manufacturers, representatives of related and allied industries, distributors, those that comprise that wide spectrum called the "gun lobby."

Mr. MACDONALD. That would include, I would say, the NRA, by most people's—

Mr. CONYERS. I would say it would include them too. Are they a party to these deliberations?

Mr. MACDONALD. My only contact—first, I can only speak really for Treasury because I do not know. Other people were formulating their drafts of bills. The Domestic Council was consulting with people whose judgments they obviously trusted, whoever they were, but from our standpoint, and we were drafting our own draft bill in the Treasury Department to try to see how much of it would survive the ultimate winnowing out process:

The only contact—I am not a member of the NRA. I do not own any weapon. I have no desire to own any firearm. The only contact

I have ever had with the NRA is that a gentleman called me up from the NRA on the phone once, and, well, I would not say he chewed me out, but he was somewhat critical of the Treasury position, and rightly so. It is certainly his privilege.

I understand that, although I was not there, there was a meeting in the latter days of consideration of the bill to be proposed which gun manufacturers, firearm manufacturers, did attend for the purpose of going over the criteria. It is also my understanding that the criteria were not changed after that meeting, that is to say there was no weakening of the criteria as they had up to that point existed.

Mr. CONYERS. Well, thank you very much for that response, and you were referring to the factoring of criteria?

Mr. MACDONALD. Yes, sir, that is right. That is what I meant.

Mr. CONYERS. So it would not be anything inappropriate about any consultations with industry representatives or spokesmen, would there?

Mr. MACDONALD. Not as far as I know.

Mr. CONYERS. That is normal in the formulation, so in response to the question, who was, or were some of those people industrywise that were involved—

Mr. MACDONALD. I do not know.

Mr. CONYERS. May I defer to Mr. Davis?

Mr. DAVIS. Mr. Chairman, I am relying on memory, but I would describe them as the major manufacturers. My best recollection is Colt, Smith and Wesson, Ruger, and probably H. & R.

Mr. CONYERS. What about Winchester? What about White Laboratory who were party to the 1971 discussions?

Mr. DAVIS. No, sir, at this particular meeting, they were not present, and I may have missed one or two, but that was my best recollection. That occurred 2 or 3 months ago.

Mr. CONYERS. Then finally, Mr. Secretary, is it your impression or your understanding of the law that gag rules imposed by the court upon matters under their jurisdiction apply to the U.S. House of Representatives?

Mr. MACDONALD. I will tell you what my understanding is. Whenever we have a gag rule in force, we send it over to the Justice Department and refer Congress to the Justice Department to work it out. I have never been involved in a situation where we have actually been pressed by Congress to answer questions.

Mr. CONYERS. You are pressing me to legislative research because it is my impression that there probably are not. Is the Moore hearing under any kind of court gag rule?

Mr. MACDONALD. Not that I know of.

Mr. CONYERS. I yield to the gentleman from Illinois if he has any comments or questions before this hearing closes.

Mr. McCLODY. Yes, I do, Mr. Chairman, and what I wanted to do— and the time I asked you earlier to yield to me was to try to bring out since you were talking about factoring, the factoring provisions set forth in the administration bill are tougher than the existing factoring provisions, are they not, with respect to the importation of the so-called Saturday night special, are they not?

Mr. DAVIS. Yes, sir, they are in certain respects, they would be more restrictive.

For example, the administration proposal would eliminate from consideration any weapon that did not have for its merit under the existing factor criteria, that is a 3-inch barrel, so that since the proposal would apply to both domestic manufacture and sale as well as importation, then it would be tougher on imported weapons.

Mr. McCLOXY. I would just like to say this for the record: I was not provided the opportunity earlier, but I think the point should be made in response to some of the comments and questions by my colleague, Mr. Ashbrook, and that is the purpose of this proceeding is to help correct the deficiencies in the existing law and to have the Congress act in response to what the existing defects are of the so-called loopholes, and it is my hope that your agency and others in the Government, in the Department of Justice and the administration Domestic Council can work and cooperate with the Congress to help articulate what I think is needed and what popular opinion today is indicating we should do, and what in my opinion society today requires.

I would finally like to recommend to you, Mr. Chairman, that you set the hearing today, if possible, for mark-up of legislation. As a matter of fact, I deferred the introductions of my bill which I introduced on Monday and which I think—and certainly is an effort to put together in one package what appears to be the sentiments of a number of members of the committee in order that the committee can now, after these long months of hearings, can compose our ideas on legislation to present to the full committee and to the Congress.

And I would ask, first of all, if you will set a hearing for next week or the week after next for that purpose and fix a date when we can get down to business of getting out a bill.

I do not think this is precipitant in any way by events in the last few weeks. This is something we have been studying and working on for a long time, you and I, and I know you have your views embodied in a measure which is before the committee, and I would like to consider that piece of legislation and my legislation and the administration's proposal and see if we can get a bill out in this session of this year, which I think would be the ultimate goal of this committee.

Mr. CONYERS. I would be happy to talk with you about it. Let us excuse the witnesses. They have been here many, many hours.

Mr. Secretary, we appreciate your presence. The Director, and the Assistant Counsel, you have been very helpful in at least helping us pinpoint some of the very important issues that are in controversy, in an attempt to pass some updated gun control legislation.

Mr. McCLOXY. Mr. Chairman, I do not mean to be taking advantage—

Mr. CONYERS. I just want to remind you that you are proceeding out of order, but if you insist on speaking as usual, I will allow you.

Mr. McCLOXY. This is a public hearing, and the public is interested when are we going to get down to the business of marking up that bill, and I would just like us to have a date set today if we can.

I would be individually interested, and many people have asked me about that, and I do not know any way to get a commitment which is available to the public except in this kind of discussion.

Mr. CONYERS. There is nothing which is going to preclude a discussion of this which, I certainly intend to do, but I choose to excuse the witnesses, if you do not mind.

Mr. McCLORY. I do not mind.

Mr. MACDONALD. As always, it is a honing experience for us to come up here and answer your questions, and we walk away a little sharper always than we were before.

[Whereupon, at 12:45 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

FIREARMS LEGISLATION

WEDNESDAY, OCTOBER 1, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:04 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Hughes, McClory, and Ashbrook.

Also present: Maurice A. Barboza, counsel.

Mr. CONYERS. Good morning. The subcommittee will come to order.

We are very pleased to have as our first witness, Attorney Ronald Gainer, Acting Director of the Office of Policy and Planning, the U.S. Department of Justice, accompanied by Attorney Karen Skrivseth.

Mr. Gainer has distinguished himself in a great deal of activity in connection with the Department of Justice in the Appellate Division. And he served as Deputy Chief and now Chief of the Legislative and Special Projects Section of the Criminal Division of the Department of Justice and he has been very instrumental in working on the formulation of firearms regulation legislation.

It is on the assumption that he is the principal draftsman of this administration proposal H.R. 9022, that we welcome him before the subcommittee and hope to learn everything that it is possible to determine in connection with the thinking that has gone into this proposal.

We should note before we begin that this represents the culmination of any number of attempts to get the Attorney General here in person. And, in view of the fact that it is apparent that we are not going to have the chief law enforcement officer before the subcommittee, we move toward our present witness.

We have your prepared statement. We thank you for submitting it in advance of your appearance. It will be put into the record at this point and that will free you to begin your discussion with this subcommittee.

[The prepared statement of Ronald Gainer follows:]

STATEMENT OF RONALD L. GAINER

Mr. Chairman, members of the subcommittee, I have been requested to discuss with you today the provisions of H.R. 9022, a bill introduced by Congressman McClory on behalf of the Administration. The bill would amend the Gun Control Act of 1968.

I need not recite to you the statistics concerning the proportion of violent crime that is accomplished through the use of handguns. At this stage of your hearings, you gentlemen are keenly aware of the extent of the problem. You are also aware of the difficulties in attempting to achieve a solution. While there appears to be a developing consensus that something must be done by the Congress about the criminal misuse of handguns, the form that such action should take remains in issue.

H.R. 9022 does not propose a ban on the possession of handguns. Nor does it propose a system of licensing owners of handguns or of registering the handguns in private possession. It does contain, however, a series of provisions which in themselves constitute relatively minor extensions of the existing federal laws, yet which, in combination, afford a realistic hope of achieving a significant reduction in the scope of the problem.

H.R. 9022 is designed to help reduce the problem of criminal use of handguns through a combination of four general measures: first, by assuring that dealers' licenses may be obtained only by bona fide firearms dealers; second, by requiring that dealers take certain steps before selling a handgun in order to assure that persons seeking to purchase handguns are lawfully entitled to do so; third, by prohibiting absolutely the manufacture and sale of cheap, unreliable handguns commonly known as Saturday Night Specials; and fourth, by undertaking measures to increase the effectiveness of enforcement efforts.

The first of the four measures is intended to restrict dealers' licenses to those actually conducting a firearms business and to assure that their business is conducted lawfully.

Today, anyone with ten dollars and a felony-free record can become a federally licensed firearms dealer. Moreover, those licensees who choose to do so may then operate in violation of the law with little realistic chance of being detected. Given the fact that there are now approximately 150,000 federally licensed firearms dealers, the likelihood of an unlawful dealer's being discovered through routine inspections is minimal. Treasury agents are able to visit each dealer's place of business approximately once every ten years, and during that visit have time to review an average of only four or five randomly-selected sets of records.

Part of the problem is that today there is only one class of federal firearms dealers' license. Yet many dealers wish simply to sell ammunition as a service to their customers. Others are interested only in handling long guns for hunters and marksmen. The current law does not even require that the licensee really be in the business of buying and selling firearms. Indeed, many persons presently obtain license as a convenient means of circumventing some of the general purposes of the 1968 Act, and they may do so lawfully. The 1968 Act was not intended to be a voluntary licensing system for anyone willing to pay a ten dollar fee for the privilege of purchasing weapons from persons in another state. It was designed to require certain conduct by persons in the business of buying and selling firearms, and it was intended as a strict limitation on interstate sales. The Treasury Department has emphasized in the past the need for a change in the requirements for obtaining a dealers' license so that only a bona fide dealer may obtain one. H.R. 9022 includes a series of provisions that will accomplish the Treasury Department's objective.

Specifically, the bill would establish various classes of licenses and would impose a scale of fees calibrated to the need for routine inspections of those holding particular kinds of licenses. The dealers' fees would range from a high of \$500 for a pawnbroker dealing in handguns as well as long guns, to a low of \$25 for a retailer selling only ammunition.

The Secretary of the Treasury, prior to issuing a license, would be required to review the genuineness of the applicant's intent to engage in a bona fide business, the capitalization of the business, the applicant's business experience, and other factors relevant to establishing that the applicant is in fact intending to engage in the firearms business. Such provisions are similar to those currently enforced with regard to applicant's desiring to engage in commerce involving alcoholic beverages. These provisions should enable the Bureau of Alcohol, Tobacco and Firearms more carefully to screen applicants for firearms licenses, particularly those who wish to deal in handguns, and the increased fees should provide a source of revenue that will more closely approximate the actual administrative and inspection costs of an adequate supervisory program.

The bill would also give the Secretary of the Treasury wider discretion in imposing penalties on dealers who have been found in violation of existing provisions. Currently, the Secretary is limited to revoking a dealer's license. Under H.R. 9022 the Secretary would also have available the ability to suspend the license or to impose a civil penalty of up to \$10,000, depending upon the gravity of the violation. The bill also provides for review of such administrative determinations in order that any arbitrary action may be avoided or corrected.

The second measure in the proposal would impose a series of restrictions upon dealer sales of handguns. It is designed to cut off the supply of handguns to persons with felony records or persons who for other reasons may not lawfully possess handguns under existing laws.

The 1968 Act prohibits sales by dealers to persons whose possession would be illegal under state law or published local ordinance applicable at the place of sale, delivery, or other disposition. Despite this prohibition, many cities that have strict handgun control laws are unable to assure the effectiveness of those laws because neighboring jurisdictions permits their dealers to sell handguns without regard to the laws of the central city. The 1968 provision prohibiting such sales has not been enforced because it cannot be enforced. H.R. 9022 is designed to make the current prohibition more enforceable by requiring handgun dealers to take steps to avoid inadvertent sales to persons who cannot lawfully possess handguns.

Under the 1968 Act dealers are required only to obtain and file a written statement by the purchaser of a firearm setting forth his name, age, and place of residence, and asserting that he is not a member of a class barred from acquiring a firearm. The 1968 Act does not require any effort by the dealer to determine whether the purchaser legally can own a firearm. There is no requirement for checking the data supplied by the purchaser and no provision for delaying delivery of the firearm.

Under H.R. 9022, handgun dealers would be required to take a series of steps to verify that a prospective purchaser is legally entitled to possess a handgun. No handgun could be sold to anyone who does not appear personally at the dealer's place of business. The prospective buyer would have to fill out a form setting forth his name, age, and place of residence, and the place where the handgun is intended to be kept. He would also be required to affirm that his receipt of the handgun would not be in violation of any law applicable at the place where he intends to keep it, and, if a permit is required under local law at the place where the handgun is to be kept, he must attach to the form a copy of his permit. This latter provision is designed to assist the dealer in verifying that the ultimate disposition of the handgun—its possession at the place intended—is lawful. The prospective buyer, moreover, would have to affirm not only that he is not among the disqualified classes of individuals listed in current law, but that he does not intend to transfer the handgun to a person barred by any law from possessing the weapon. This provision is designed to provide a provable charge against "strawmen" who purchase handguns with intent to sell or transfer them to third parties whose possession would be unlawful. Finally, the prospective purchaser would have to establish his identity through means required by the Secretary of the Treasury, and, in order to facilitate checking of the information supplied, would have to set forth the name of the chief law enforcement officer in any locality where the purchaser resides and where the handgun is to be kept.

To assure an opportunity for verification of the information supplied by the prospective buyer, the dealer is required to wait a period of up to 14 days before the sale of the handgun may be completed and the weapon delivered to the purchaser. The 14-day delay may, in itself, have some salutary effect. Surveys have indicated that there is a strong temporal correlation between handgun purchasers and illegal handgun usage indicating that many handguns are purchased for the express purpose of engaging in criminal activity; a "cooling-off period" may therefore occasion some benefit by delay in acquisition alone. The principal purpose of the 14-day period, however, is to provide an opportunity for ascertaining the accuracy of the information supplied by the would-be purchaser. The dealer is required to check through the local police—who would request an FBI "name check" of the purchaser—to establish whether he has a record of felony convictions or other disability that would disqualify him from purchasing a handgun. When the dealer receives from the local police the results of their criminal

records check and a statement to the effect that the purchaser is not disqualified from possessing a handgun in the locality where he intends to keep the weapon, he may complete the transaction absent any reason to believe that the purchaser is acting as a "strawman" on behalf of disqualified individuals.

The local police are not specifically required by the legislation to give their full cooperative efforts in ascertaining the accuracy of the prospective buyers' statements. However, since assuring that persons with criminal records do not obtain handguns would be of direct and material interest to local police authorities, it is expected that virtually all municipalities will readily elect to take full advantage of the screening opportunities provided by the bill. Similarly, while the bill does not specifically require that the local police request an FBI name check of prospective buyers, it clearly would be in their interest to do so. A 1974 review of 2,000 purchase forms in the files of 12 dealers in one state revealed that 187 purchasers would have been identified as felons by a simple FBI name check and thus would have been found ineligible to purchase firearms. It is expected that local police would welcome the opportunity to take advantage of this simple screening technique.

It should be noted that, as is the case under existing law, the records of handgun transactions would be kept by the handgun dealers. The bill provides for no central registry.

In addition to providing a greater potential for preventing unlawful handgun sales, the bill also contains two new criminal provisions designed to aid in the enforcement of federal and local handgun control laws. The first would prohibit shipping firearms into or through a state where the shipment would violate state law or shipping firearms in interstate or foreign commerce in violation of a law of the place of sale, delivery, or other disposition. This provision is similar to various other provisions in the federal law, and is designed to aid local law enforcement authorities by stopping illegal shipments in transit rather than having to wait for their arrival and mass distribution.

The second new criminal provision is one of particular importance. A recent study has indicated that although only two to seven percent of all handgun purchases are in violation of the law, approximately 58 percent of multiple purchases by single buyers are in violation of law. To help stem the problems suggested by the study, the Department of the Treasury recently has promulgated regulations requiring that dealers report multiple firearms sales. While this should provide assistance in tracing unlawful handgun purchasers, a change in the existing statutes would be particularly helpful.

Accordingly, H.R. 9022 would prohibit the sale to, or the purchase by, an individual of more than one handgun in any thirty-day period. This provision, in combination with the screening provisions previously referred to, should make it difficult for gun runners to make large purchases of handguns; the numerous trips to different areas and the evasive tactics that would be necessary to circumvent the legislation would make such illicit businesses economically unprofitable. For legitimate purchasers who have occasion to buy more than one handgun in a thirty-day period, however, exceptions to the prohibition would be provided under regulations established by the Secretary of the Treasury. This would permit multiple sales involving security agencies, estates, collectors, and others in similar special situations.

The third means by which H.R. 9022 would seek to reduce the problems caused by criminal use of handguns is by the elimination of the availability of the Saturday Night Special.

As the term is generally used, "Saturday Night Special" refers to a cheap, highly concealable, inaccurate handgun that often is as inherently dangerous to the possessor as it is to the citizenry as a whole. It is of no value to a hunter. It is of no value to a competitive target shooter. It is usually of no value even to a self-respecting weekend "plinker". It is of far less value than a rifle or shotgun to a person who wishes to defend his home against a criminal intruder.

The only real value of a Saturday Night Special is to frighten and to kill. Indeed this is the use that has been made of it. In 1974 the Bureau of Alcohol, Tobacco and Firearms traced 4,537 handguns found to have been used in crimes in four major cities and found 70 percent of them were classifiable as Saturday Night Specials.

A substantial step in meeting the problems of Saturday Night Specials was taken by the Congress in enacting that portion of the 1968 law which bans the

importation of such weapons. That step turned out to be insufficient, however, because although the law banned importation not only of completed weapons but of frames and receivers, it did not ban the importation of the other parts necessary to make Saturday Night Specials and did not ban their domestic assembly and manufacture. H.R. 9022 would seek to eliminate this loophole in the existing law by banning not only importation but the domestic manufacture, assembly, and sale of Saturday Night Specials.

There is, of course, a difficulty in defining with precision the kinds of handguns to be banned. Several possibilities have been explored. H.R. 9022 employs a variation of the factoring system designed by the Department of the Treasury to effect the current statutory ban on importation of handguns that have legitimate sporting purposes.

This system, which was developed by the Department of the Treasury in consultation with several groups interested in the problems involved, has been modified in the bill in order to make the standards more effective from both a law enforcement and a sporting perspective.

Under the system set forth in the bill, in order to avoid falling within the prohibited category of handguns a pistol must have a manually operated safety, a height of at least four inches, and a length of at least six inches; a revolver must have a safety device sufficient to assure that the weapon will not fire if dropped, an overall frame length of at least $4\frac{1}{2}$ inches, and a barrel length of at least four inches. These basic standards will assure that no handgun may be produced or sold without basic safety features and without sufficient size to reduce the likelihood of concealability. In addition, however, a handgun passing the basic standards must be found to possess such additional features as enable it to accumulate a specified total number of points. Under the provisions of the bill, points are given for length beyond the minimum required, the use of stronger and safer materials in frame construction, each ounce of weight, additional safety features, and the existence of various items such as adjustable sights and target grips. The general purpose of these requirements is to assure the safety and legitimate sporting utility of handguns that are being imported, manufactured and sold.

It should be noted that, unlike the system developed by the Department of the Treasury after passage of the 1968 Act to flesh out the "sporting purposes" test, the factoring system just discussed is included within the proposed statutory framework itself. This should assure that extensions or modifications of the standards cannot take place simply by administrative action, but must await specific action by the Congress.

The fourth means by which the bill seeks to reduce the problems occasioned by the criminal use of handguns is a somewhat more direct one. The bill would facilitate prosecution of felons found in possession of guns, and would insure the incarceration of those found guilty of using a gun in the course of another criminal offense.

The 1968 Act made it unlawful for felons and certain other persons to receive, possess, or transport firearms "in commerce or affecting commerce." The Supreme Court, in a divided opinion in *United States v. Bass*, held as a matter of statutory interpretation that in each case there must be a clear nexus between the possession and the interstate commerce. In practice this means that if a convicted felon is found to be carrying a handgun he may not be prosecuted unless the government can prove, for example, that he was carrying the weapon from one State to another. For all practical purposes, therefore, there is currently no effective federal prohibition against a felon possessing a firearm. The "receipt" portion of the statute does not provide an effective alternative, since it requires proof not only that the weapon was transported in interstate commerce but that it was received by the felon after 1968, and establishing both the date of the receipt and the venue of the receipt has presented major prosecutorial problems. The consequence of this Court interpretation has been to weaken considerably the effectiveness of the 1968 Act.

H.R. 9022 would remedy this problem by striking the language found to be ambiguous and by substituting in its stead a congressional finding that possession or receipt of a firearm by members of the statutorily prohibited classes constitutes itself a general burden on commerce. This would obviate the need to establish in every case a direct connection with interstate commerce. The rising rate of crime committed with firearms, and the special danger inherent in the possession of firearms by members of the proscribed classes of individuals,

clearly would justify such a congressional finding. A similar finding adopted by the Congress with respect to the current loansharking statute was found by the Supreme Court in *United States v. Perez* to constitute a constitutionally supportable basis for the exercise of federal jurisdiction.

The 1968 Act also provided for special penalties to be imposed upon persons who use a firearm to commit another federal offense. The statute directs that, upon conviction, a court impose a sentence of between one and ten years imprisonment for a first offender, and between two and twenty-five years imprisonment for a second offender. The statute does not, however, prohibit the court from suspending execution of the sentence to imprisonment if the defendant is a first offender. Consequently there is today no mandatory minimum sentence that must be imposed for an offender who has not previously been convicted under the same statute.

The Administration has submitted to the Congress an amendment to the Criminal Justice Reform Act, now pending as H.R. 3907 and as S. 1, which would impose a mandatory penalty upon persons convicted of using a firearm in the commission of a federal crime. The need for such a provision, however, is immediate. Accordingly, H.R. 9022 contains a provision that would make mandatory the imposition of a term of imprisonment for anyone using a firearm in the course of a crime. This would increase the certainty of sentences in such instances pending the congressional consideration and passage of the broader, more integrated provisions of the Criminal Justice Reform Act.

In addition to the provisions contained in H.R. 9022, there are other means of seeking to make more effective the federal efforts against firearms violators. Principal among them is the Administration proposal to establish special handgun task forces in the nation's eleven largest cities—task forces that will concentrate federal investigative resources upon the underground networks that have provided black market sources of weapons for use in crime. Under the proposal, the Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms will increase the number of its agents by more than 50 percent; a total of 500 new agents will be assigned fulltime to stem the unlawful traffic in handguns in the designated metropolitan areas. The House Appropriations Committee has not yet scheduled hearings on the necessary funding, but it is hoped that such hearings may be held later this month.

The passage of the proposals contained in H.R. 9022, and their enforcement by an increased contingent of Treasury agents, will not eliminate the problem of the criminal misuse of handguns. But it will help to reduce the seriousness of the problem. It has the potential for saving lives and for reducing the level of fear in our cities. It offers the prospect of making progress in an area where progress has been very difficult to achieve. It warrants the careful consideration of this Subcommittee and of the Congress as a whole.

TESTIMONY OF RONALD L. GAINER, ACTING DIRECTOR, OFFICE OF POLICY AND PLANNING, DEPARTMENT OF JUSTICE, ACCOMPANIED BY KAREN SKRIVSETH, ATTORNEY, OFFICE OF POLICY AND PLANNING

Mr. GAINER. Mr. Chairman, I might point out that though I have been a principal participant in the various examinations of alternative solutions to the firearms problem. I was not the principal draftsman of this particular version of the bill. Ms. Karen Skrivseth had a great deal to do with it, and I was a participant in all stages of the drafting of this bill and in the prior discussions that led to it.

Perhaps it might be helpful to the committee if I would simply paraphrase some of the statements that appear in the prepared testimony and indicate in outline form to you the essential features of what is included in H.R. 9022.

Mr. CONYERS. Would it be inappropriate, sir, to ask if you give us a background of the planning that went into this or give me some idea of how long you have been working on this in your end of it.

Mr. GAINER. I am not quite sure I know what you mean by my end of it. I suppose it started in 1972 when the Criminal Division was asked by Henry Petersen to start evaluating the possibility of developing some solution to the criminal law problems created by the ready availability of handguns.

There was a committee established at that time within the Division.

There later was an intradepartmental committee established at the time Mr. Richardson was Attorney General. That committee held several meetings and made some draft proposals that were aborted with the so-called Saturday night massacre.

With the merry-go-round of Attorneys General and Deputy Attorneys General that the Department has seen in the past few years, it has been rather difficult coming to the present stage. We are pleased, however, finally to have a bill for consideration by the Congress.

When the present Attorney General was confirmed, he indicated his strong interest in proposing measures for dealing with the problems caused by handgun misuse and he established a departmental committee to explore the problem. The departmental committee worked very closely with representatives from the Department of the Treasury, with other law enforcement agencies interested in the problem, and with various offices within the Department of Justice that had an interest in it, either from the absent constitutional aspect or from the prosecutive aspect or from the law enforcement and investigative aspect.

Over a period of time, that committee discussed various approaches to the problem, including the approach of a regionalized proscription on the use of handguns that would be triggered by rises in the crime rate in particular metropolitan areas, an approach the Attorney General thought held some promise.

The Department's committee considered, I suppose, 20 or 25 kinds of approaches to the problem. After it was decided what approach would be taken by the Department and by the administration as a whole, we worked very closely with representatives from the Bureau of Alcohol, Tobacco and Firearms in the Department of the Treasury in coming forward with this particular draft.

In the course of the general weighing of the alternative approaches available, three representatives from the Department, myself included, had been designated by the Attorney General to talk to interested private organizations and groups. We did so. I suppose we talked to 2 or 3 dozen in all. We found a great variety of views as to what would be an effective approach, what would be a proper approach. There was some overlap, and some very strong divergences of opinion, as I am sure you are keenly aware.

That, in essence, is the nature of the consideration the Department has given the problem over the past few years.

Mr. CONYERS. Well, I appreciate that. Can you describe that further so that we have an understanding of this development of a proposal.

Who were the other representatives who talked to the private organizations? What were the approaches considered and how were they discarded, you know, what happened? How did the developmental process take place in terms of arriving here, if you can elaborate just a little bit more.

Mr. GAINER. Well, in answer to your first question, the three individuals designated by the Attorney General were Jonathan Rose, my predecessor in the Office of Policy and Planning, myself, and Jack Fuller, special assistant to the Attorney General.

I suppose the administration's bill might be considered an approach that evolved out of the various discussions with private organizations and with other governmental organizations. I think probably everything that has been suggested in the literature and that has been suggested in the course of your hearings, and in the course of previous hearings that have occurred on the Senate side, had been considered by the Department and by others in the administration in evaluating what approach might best be taken.

The proposal that you see before you today does not contain a ban on handguns. It does not contain provision for a central registry of handguns, nor does it contain a provision that would call for the licensing of handgun owners. These are all legitimate methods that warrant consideration. But it was perceived that substantially similar benefits could be obtained by a series of provisions that individually would constitute relatively modest extensions of existing law, yet, which, in combination, could have a measurable effect upon the incidence of handgun violence in a criminal context.

This particular bill attempts to reach a solution to the problem of handgun violence by four principal means.

First, it contains a series of provisions that will assure that dealers' licenses may be obtained only by bona fide dealers in firearms.

Second, it requires that dealers follow procedures to permit a pre-sale examination of criminal records by local police and the FBI to determine that prospective buyers of handguns are individuals who are not precluded by the existing law provisions from owning or possessing handguns.

Third, it includes a "Saturday night special" provision which would prohibit the importation, manufacture, sale, or transfer of any gun falling within the category of weapons commonly denominated "Saturday night specials."

And, fourth, it would provide some modifications of existing law in order to make enforcement a little more effective.

The first of the four measures is designed to restrict the availability of dealers licenses. I think the Department of the Treasury has previously discussed it in some detail with you, Mr. Chairman, and with the other members of your subcommittee, and informally with the staff of the subcommittee.

The problem, as you are aware, is that today anybody with \$10 and a felony-free record can get a license to deal in firearms. This is not exactly what the 1968 legislation intended, if one reads the legislative history, but, it really is what has evolved as a matter of practice. There are approximately 150,000 federally licensed firearm dealers in this country today. The Department of the Treasury has experienced material difficulties in attempting to regulate this number of dealers and in attempting to examine whether or not they are operating in compliance with the law.

Part of the problem is that today there is only one class of federal firearms dealer's license. The bill seeks to mitigate the problem somewhat by establishing various classes of licenses and imposing a scale

of fees, calibrated roughly to the need for routine inspections of those holding these particular kinds of licenses. It has been found, for example, that an unusually high percentage of handguns used in crime have been bought from pawnbrokers. Currently, the pawnbroker's license costs \$25, whether he is engaging in the sale of long guns or handguns. Under this bill, the license would go up to \$500 if he is selling handguns as well as long guns, \$250 otherwise.

A firearms dealer who sells long guns alone would be required to pay a \$100 fee, a fee that very readily could be met by profits from the first sales during the year by a legitimate dealer. If he intends to sell handguns as well, the fee would be \$200, a figure more closely approximating the cost to the Bureau of Alcohol, Tobacco, and Firearms to investigate such license holders.

Also, prior to issuing any federal license, the Secretary of the Treasury would be required to review the genuineness of the applicant's intent to engage in a bona fide business.

The bill would also permit the Secretary to impose various sanctions for license violations short of revocation of the license, that do not exist today, including suspension of the license and civil penalties.

Mr. CONYERS. Excuse me for interrupting, but we have a record vote that is now taking place on the House floor.

So the subcommittee will stand in recess until after the conclusion of this vote.

[A brief recess was taken.]

Mr. CONYERS. The subcommittee will come to order. I appreciate the forbearance of the witness. Please proceed.

Mr. GAINER. Mr. Chairman, the second measure in the bill is designed to alleviate the problem of criminal misuse of handguns and is, perhaps, the most significant measure.

The 1968 act prohibits sales by dealers to persons whose possession would be illegal under State law or any published local ordinance applicable in the place of sale, delivery, or other disposition. The Department of Justice has for some time interpreted the words "or other disposition" to include possession at the place where it had been intended to be possessed, but there is no provision in existing law that enables a dealer readily to ascertain whether or not the individual's possession at his place of residence or other place where he intends to keep the weapon would, in fact, be lawful.

Under the 1968 act, certain information is required to be obtained by the dealer prior to selling a firearm to a prospective purchaser, but there is no means that enables him to ascertain the accuracy of this information. The identification of the purchase is done usually by means of a driver's license or some other common indication of identity. If the purchaser provides identification indicating that he is from the dealer's State, the dealer can sell to him.

Under the proposal contained in H.R. 9022, handgun dealers—handgun dealers, not long gun dealers—would be required to take a series of steps in order to ascertain that the prospective purchaser is, in fact, authorized to possess that weapon at the place where he lives and, if he intends to keep it at a summer cottage, for example, at that place.

The prospective buyer would have to fill out a form setting forth his name, age, place of residence, and so forth, and, if he intends to keep the handgun at a place other than his place of residence, the place where he intends to keep it. There is a variety of other information he would have to supply, including any proof of identity required pursuant to regulations promulgated by the Secretary of the Treasury. If the local law at his place of residence or at any other place where he intends to possess a handgun requires that he have a permit, for example, he has to attach to the form a copy of that local permit. He further has to set forth the name of the chief law enforcement officer at the locality where he resides, and at the locality where he intends to keep the weapon if it is different from his place of residence.

The purpose of these provisions is to assure a means of verification that the individual seeking to purchase a handgun is not one falling within the classes of individuals who are proscribed from handgun possession under the 1968 act, principally, ex-felons. To assure an opportunity for verification of the information supplied by the buyer, the handgun dealer would have to send to the local chief of police at the place where the individual resides, and the chief of police at the place where he intends to keep the handgun, if different, copies of the information obtained in order to permit the local police to ascertain from their records whether or not the prospective buyer has a felony record in the area and in order to permit the chief of police to ascertain from the FBI—through a simple name check process—whether or not the prospective buyer has a felony record in any other jurisdiction.

The 14-day waiting period is imposed in order to permit adequate time for the local police to come back to the handgun dealer with the results of the police inquiry. If by the end of 14 days the dealer has not heard from the local police, he could proceed on the assumption that they have not found anything that would prohibit the individual from possessing the weapon.

If that occurs, and if a permit is required, the purchaser does, indeed, have a permit, then the dealer can complete the transaction and transmit the handgun to the purchaser. If the police transmit information to the dealer before the expiration of the 14-day waiting period that the person is not a felon and that there is no other reason why he cannot possess a handgun, the dealer may complete the transaction prior to the expiration of 14 days.

There is nothing in this bill, I should point out, that requires that a local law enforcement officer go through the process of ascertaining whether or not the individual has a felony record. It is expected, though, that local police will give their full cooperative efforts to a venture of this nature. There are more police officers killed by handguns than by any other kind of weapon, and local police have a material interest in seeing to it that felons in their community are not enabled to purchase handguns from a Federal firearms dealer. I think there will have to be a great incentive to local police to follow the procedures in the bill and to ascertain whether or not the individual does have a felony record in their jurisdiction or another jurisdiction.

It might also be noted that the 14-day waiting period, in itself, might have a collateral effect of a salutary nature—inasmuch as there have been some studies by Zimring and others, one by a New York group—

indicating that there is a strong temporal relationship between handgun purchase and use of handguns in crime. These studies indicate that, indeed, there are many handguns purchased for the express purpose of engaging in criminal activity.

In addition to that provision, there is a prohibition against sale or purchase of several handguns at one time without prior approval of the Secretary of the Treasury or, in the case of private transactions, notice to the Secretary after the sale. Only 2 to 7 percent of all handgun purchases from Federal firearms dealers appear to be in violation of existing law, but when there are multiple purchases involved, 58 percent of those purchases are in violation of existing law. These are purchases primarily by gun runners.

The provision in this bill looks a little peculiar. It simply says an individual cannot buy more than one handgun in any 30-day period. One could accumulate a fair arsenal at the rate of 12 a year. It is not the individual that this provision is aimed at it is at the gun runner, the "strawman" who is buying for the purpose of selling to others. It permits an easily provable charge against him. The gun runner cannot operate his business if he can buy only one gun from one dealer at one time. If he is going to have to go to divers parts of the country in order to buy a variety of handguns over a short time span, he is going to incur a great deal of expense. It is going to become a fairly unprofitable venture and a highly risky one, given the fact that in all instances the application will have to be reported to local police at the place where he professes to live.

Now, the third general means by which H.R. 9022 would seek to alleviate the problem caused by handguns is by prohibiting the manufacture, assembly, and sale of the so-called Saturday night special. As the term is generally used, it means a cheap, highly concealable, inaccurate handgun. A handgun of this nature is of no value to a hunter. It is of no value to a competitive target shooter. It is of no value, really, to a self-respecting weekend plinker. It is of value only to frighten people and to kill people.

To the extent that such a weapon has a defensive value, an individual can defend his home just as well with a long gun, as opposed to a handgun. It is safer from a statistical standpoint. A long gun is more accurate, and from any one of a half dozen manufacturers in this country one can get a good quality, single shot—or in one instance, dual shot—shotgun in the \$50 to \$70 price range.

In any attempt to limit the availability of Saturday night specials, There are a variety of approaches that can be taken. The one in this bill is a variation of the factoring test developed by the Department of the Treasury in order to implement the sporting purpose test of the 1968 act.

As the test appears in the bill, in order to avoid falling within the prohibited category of handguns, a pistol must have a manually operated safety. It must be at least 6 inches in length. It must be at least 4 inches in height. A revolver, in order to meet the requirements, must have a safety device sufficient to withstand a drop test of a specified distance without misfiring. It must have an overall frame length of at least 4½ inches. It must have a barrel length of at least 4 inches, a stiffer requirement than in the current Treasury Department regulations.

In addition to these requirements, there are further requirements that a pistol and revolver accumulate a certain number of points under a factoring test, points being awarded for each ounce of weight of the gun, the length of the gun beyond a certain size, and so forth.

Generally, the criteria are designed by the ATF people to exclude weapons that have no legitimate sporting purpose and that are highly concealable.

The fourth general means by which the bill seeks to reduce the problems occasioned by handgun violence is a somewhat more direct one. In the 1968 act the Congress made it unlawful for felons and certain other prohibited categories of individuals to receive, possess, or transport firearms "in commerce or affecting commerce."

It appeared from the language of the statute that "in commerce and affecting commerce" was a phrase modifying only the word "transport" and not the words "receive or possess." This is the way the Department of Justice had construed it. The Supreme Court, however, in the case of *United States v. Bass*, found the wording of the statute somewhat ambiguous and, since it was ambiguous, it held for the defendant. It held, in essence, that there had to be a direct nexus between the possession and the effect upon commerce.

For practical purposes, this means virtually that the Government must prove that a felon possessing a gun was actually moving it in interstate commerce at the time he was arrested. It leaves us, in effect, with no Federal statute that can be enforced dealing directly, or prohibiting directly, the possession of a firearm by a felon. This bill would drop the language "in commerce or affecting commerce" and would substitute in its stead a general finding by the Congress that possession of weapons by classes of individuals such as felons has a direct general effect on interstate commerce and, therefore, there is a sufficient Federal interest to permit the exercise of Federal jurisdiction. This was the approach taken by the Congress in the loansharking statute, also passed in 1968, the constitutionality of which was upheld by the Supreme Court in the *Perez* case (402 U.S. 146 [1971]).

The 1968 act also provides special penalties for felons who use a firearm in the course of committing another Federal offense. The act states that a penalty of 1 year to 10 years' imprisonment must be imposed for an offender who has not previously committed an offense under that same section, and a term of 2 to 25 years for an offender who has previously been convicted under the same section. As to a first offender, however, even though the imposition of the term of imprisonment is mandatory, the execution of that judgment is not required. It may be suspended; the individual may be put on probation.

This bill would eliminate the availability of probation for a first offender, as well as for a second offender.

The general subject of mandatory minimum sentences is one that has received and deserved a good deal of debate. There have been problems with true mandatory sentences in the past. It has been found that there has to be some sort of escape valve in order to avoid what is perceived by prosecutors and by juries and by judges as unduly harsh consequences when an offense is committed under particularly compelling and mitigating circumstances. The way this bill would do it is the way the current law does it, and that is to provide immediate

eligibility for parole. The judge can sentence under section 4208(a) of title 18 and indicate to the Parole Board that in his judgment that the individual might be paroled after 1 month, 3 months, 6 months, or whatever period he feels is appropriate.

In separate legislation the administration has sent up to modify the proposed Criminal Justice Reform Act, there is a more elaborate system of providing a series of escape valves for mandatory sentences in general. Pending passage of a more complete series of provisions of that nature, it was felt that the provision in H.R. 9022 might appropriately go into effect as soon as the bill is passed. This is one area where there seems to be quite a consensus that a mandatory penalty is appropriate.

In addition to the provisions contained in H.R. 9022, there are other means of attempting to make more effective the Federal efforts against handgun violators.

One of the most important ones is the President's proposal to establish special ATF task forces in major metropolitan areas where there is a particular problem with handgun violence. That proposal would double the size of the ATF investigatory force. It would add 500 new agents. Those 500 new agents would be sent to 11 cities around the country where there are particularly severe problems with illegal use of handguns.

The idea would be to stem—under the improved Federal laws that would be accomplished by this legislation—the inflow of handguns to metropolitan areas in violation of Federal laws. The flow is usually in violation of the local laws, too, but there is no effective means of prohibiting that flow. The cities cannot at their borders search everyone coming in, and I do not think any of us would wish to have that. This is one means of effecting a form of regionalized approach to the problems created by handgun violence.

Individually, these provisions are fairly modest extensions of existing law. In combination, they can have a material effect. We believe that the bill is worth very careful consideration of this subcommittee and very careful consideration by the Congress as a whole.

Mr. CONYERS. Thank you, Mr. Gainer.

We are going to begin questioning under the 5-minute rule. I would like to, I guess, start just with your last statement. In combination, these modest provisions, as encompassed in the administration bill, will have an effect in doing what?

Mr. GAINER. They will have an effect in reducing the incidence of handgun-related offenses. As this committee is very well aware, the handgun is the most common weapon used in violent offenses—murders, aggravated assaults, and in robberies. You know the statistics as well as anyone. By the presale screening device to prohibit the transmission of handguns to persons who already have a felony record, some good can be done over a period of time.

AFT, in a 1974 study, ascertained that 10 percent of the purchasers of weapons in one locality would have been found to have a felony record by a simple FBI name check. While screening would not catch all of the persons who should not possess handguns, that simple device in itself could have prevented that 10 percent from getting weapons.

The "Saturday night special" provision will stem the increase in the number of such weapons in our society. Those are the weapons that simply do not have a legitimate purpose. They are not of interest, for the most part, to members of the NRA for target purposes or any other legitimate purposes. They are weapons that simply are in a category that we could well do without. By eliminating the availability of those weapons over a period of time, there will be some benefit.

Mr. CONYERS. Are you predicting that there will be a reduction of handgun violence with the enactment and proper enforcement of this legislation; and by that, do you include violent criminal usage of guns and the deaths that occur, as well as the accidental usage of handgun deaths?

Mr. GAINER. Oh, yes. I do not know how much would occur. I do not know whether it would do anything but perhaps stem an increase. But it would have a measurable effect. When we are dealing with human lives, any attempt is worth the effort.

Mr. CONYERS. We are trying to determine what is going to happen here. Why will the same thing not happen that happened in the 1968 gun law? Let me just describe what it is that happened, so that we will know that we are discussing the same point.

What happened was we stopped imported "Saturday night specials." And so, they were made in greater quantity inside the United States. We also got into the little game of assembling them after they were brought into the United States. So is there any way that we could foresee the possibility that if we applied a test—which is essentially not too different from that that appears in the 1968 Gun Act—then why will people not just spend the several dollars more that may be required to get whatever will become, in effect, the "Friday night special" if we abolish the "Saturday night special"?

Mr. GAINER. It would cost more. There would be a lessened availability—50 percent or thereabouts of the guns currently manufactured in this country could not be manufactured. Over a period of time, it would dry up the market to a certain extent. It would undoubtedly increase the price of attempting to obtain a weapon. That, in itself, is not going to be a solution, but; it will be a help, a partial help. In combination with such measures as the pre-sale screening device, which is of fundamental importance, it would have an effect on the easy availability of handguns that should not be discounted.

Mr. CONYERS. How many handguns, according to the Department of Justice, are in existence already?

Mr. GAINER. We are taking the Treasury estimates of roughly 40 million. It seems to be as accurate as any other.

Mr. CONYERS. So that number would not appreciably diminish?

Mr. GAINER. That is correct.

Mr. CONYERS. How many are coming into the society annually in terms of new sales.

Mr. GAINER. It is roughly 2 million to 2½ million handguns. That should be weighed against an annual attrition rate of roughly 250,000, firearms, including long guns according to ATF statistics.

Mr. CONYERS. So then, even assuming that this would become opera-

tive and we could reduce 50 percent of the handgun sales, we would still have the 40 million in existence; and then, we would be reducing the 21½ million per annum by 50 percent?

Mr. GAINER. You would.

Mr. CONYERS. And in that judgment, plus the other combinations of provisions in this bill, you would foresee that the handgun deaths, which are in the range of 10,000 annually—

Mr. GAINER. There are 10,000 handgun homicides annually. There are an additional 5,000 handgun deaths by suicide, and another 600 or so by accident.

Mr. CONYERS. Right. And you predict that those figures would go down as a result of the diminution of the handguns that would not be coming in under these provisions?

Mr. GAINER. They would. How much is debatable. Zimring has indicated that a reduction in handgun density would have a significant effect on reducing violent crime. In addition, an unpublished economic analysis indicates that a reduction in handgun density of roughly 10 percent could reduce the homicide rate by as much as 20 or 25 percent.

The "Saturday Night Special" manufacture and sale proscription solution is not going to provide a solution in itself. Certainly, it cannot. But an individual could not resell a "Saturday Night Special" under this provision. And an individual could not resell any firearm to any felon, or to any other person who he knows or has reason to believe is among the proscribed classes. With the identification requirements, the requirements of checking with the local police and the FBI, it would be more difficult to sell to those who already have a record. This will have some effect.

One thing of significance is the fact that this at last would provide a structure that would enable the Federal Government to assist the States in enforcing their own handgun laws of whatever kind they find appropriate for their community. I think that is an important factor. Certainly, a small city, a rural region in the west, is going to have somewhat different needs than a major metropolitan area. This bill provides a Federal framework that at least would enable the local officials to prosecute effectively under their own statutes, whatever kinds of statutes they may be.

Mr. CONYERS. I yield now to the gentleman from South Carolina, Mr. Mann.

Mr. MANN. Thank you, Mr. Chairman.

Mr. Gainer, you referred to, in connection with mandatory sentences, to the escape valve available to the court, under section 4018(b) or whatever it is. No reference is made to that in 9022.

Mr. GAINER. No; it is not.

Mr. MANN. So that would remain a discretionary matter with the judge?

Mr. GAINER. Yes; that is correct. Whether or not the judge wished to sentence under section 4208(a)(2) of title 18 would remain discretionary with him. The bill would simply add language to section 924(c) of title 18 to prohibit the imposition of probation for a first offense as well as for a second offense as provided in existing law.

While he could no longer impose probation any more under this measure, he could indicate whether or not he thought early parole would be appropriate.

Mr. MANN. So this bill would have the effect of making the minimum imprisonment for offenses either 1 or 2 years?

Mr. GAINER. That is correct.

Mr. MANN. And then it would be up to the parole authorities as to whether or not that were reduced by any amount?

Mr. GAINER. It would make the minimum sentence the judge would have to impose either 1 or 2 years, depending on whether or not he is a recidivist. The parole board could parole earlier than that.

Mr. MANN. Yes.

Mr. GAINER. If the judge wished to preclude parole earlier than that, he could do so by sentencing to three times the minimum time he wishes the individual to serve, and by employing 4208(a) (1).

Mr. MANN. All right.

Now, with reference to the "Saturday night special", you would ban the manufacture and sale domestically. There are, I am sure, thousands of them in commerce now, in the hands of dealers. What is expected with reference to those? What is expected with reference to private sales or transfers of the "Saturday night special"? How do we either compensate or allow for the trafficking that will undoubtedly occur under those circumstances?

Mr. GAINER. There is no compensation provided in this bill. It is expected that firearms dealers that currently have them in their possession would either return them to the manufacturers from their unsold inventory, if they have that option, or would sell them before the effective date of the statute. Individuals would be precluded from transferring the weapons. They could not sell them, they could not loan them, they could not give them away. The only way they could pass to someone else would be by inheritance. But there is not a provision for compensation to the individual, partly on the grounds that under this formulation, the individual would be able to retain possession, for his lifetime if he chose to do so.

Mr. MANN. All right.

Now, I am interested in the Zimring study that you referred to. Give me a better reference to that, please.

Mr. CONYERS. Is that the law review article that you have in mind?

Mr. GAINER. Mr. Zimring has a series of law review articles, as well as the book-length document he prepared for the Violence Commission with Mr. Newton. He indicated in a 1968 article published in the University of Chicago Law Review that, because of the deadliness of guns, if the number of guns were reduced there would be a significant reduction in the homicide rate even if there were no reduction in the number of offenses with intent to kill. The more specific figures I mentioned come from a preliminary draft of an unpublished study by several academic economists at the University of Chicago.

Mr. MANN. Very well. That is all I have. Thank you, Mr. Chairman.

Mr. CONYERS. I would refer you to the University of Chicago Law School article that. I think, is that one which we have copies of. The gentleman from Ohio, Mr. Ashbrook.

Mr. ASHBROOK. Thank you, Mr. Chairman.

First of all, can you state whether or not the President of the United States has seen and approved of this bill?

Mr. GAINER. Yes. He has seen the bill. He has come forth with quite a strong statement in favor of the bill in his message to the Congress concerning crime in general. He stated quite explicitly that he favors the "Saturday night special" provisions. He stated that he thought such weapons were a threat to the domestic tranquillity, and that we should eliminate their manufacture and sale entirely. He indicated his favoring of the waiting period between purchase and receipt of the handgun. He stated this should be imposed to enable dealers to take reasonable steps to verify that handguns are not sold to persons whose possession of them would be illegal under Federal, State, or applicable local laws.

He further specifically endorsed the provision that would permit only bona fide firearms dealers to obtain Federal licenses to engage in the business of selling firearms, and he said he specifically favored the availability of mandatory sentences for those who employ firearms in the course of criminal offenses. He has stated, however, that he is personally quite strongly against any registration and licensing schemes.

Mr. ASHBROOK. I hope he will revise his speech as he travels around the country—because it seems to me he has been talking about avoiding regulations, controls, and so forth in Washington, and this bill has got about as many traps and snares and creeping control as any measure I have ever seen. And that kind of shocks me to think that he would support something like this.

Mr. GAINER. I think the difference between this and the others is, it is that primarily designed to assist State and local authorities in effectively policing—

Mr. ASHBROOK. I would disagree. I think it is primarily designed to take a first, long step toward moving in on every firearm in the country. I think even the concept of having civil penalties imposed by the Secretary of the Treasury, up to \$10,000—I cannot believe this administration would come up with something like that.

Mr. GAINER. That is for firearm dealers, sir. Today, only revocation—

Mr. ASHBROOK. They are still individuals, as far as I know.

Mr. GAINER. If a person engaging in the business today violates the statute or a rule or regulation, he can only have his license revoked. Even if the Secretary of the Treasury believes that revocation is too harsh for the violation, present law does not provide any alternative to the Secretary to revocation. This provision would permit suspension of the license or imposition of a civil penalty as alternatives to revocation.

Mr. ASHBROOK. I would like to get into the whole matter of bona fide dealers later. I am sure in Michigan, I am sure in Ohio, I am sure throughout the country, there are literally thousands of hardware stores, thousands of general stores, who are not primarily firearms dealers; but as a convenience, have the sale of both firearms and various items that the hunter and the sportsman might need. If we are going to move in on those, I think it seems to me the exact opposite of everything else he talks about.

I think you would have the authority to do that. I certainly would not want to leave something so vital as this to the tenuous discretion of some future Secretary of the Treasury, and I again repeat what I said earlier. I am amazed that this administration would come up with a bill that seems to go so far, that has so many traps and snares, and flies in the face of the definite, overt public statements of the President of the United States.

Mr. GAINER. I must say we are somewhat encouraged by your interpretation, because we had interpreted it to say that the Secretary of the Treasury could not refuse to approve a handgun model which passed the criteria. You feel, under this bill, which is an extension of the existing law, that he could reject it.

Mr. ASHBROOK. Wait a minute, wait minute. This is no restriction. You are extending section K to domestic firearms? That is in the 1968 act on importation. So you are not restricting, you are extending.

Mr. GAINER. We are extending it to domestic manufacture and sale, yes.

Mr. ASHBROOK. What you now have on foreign?

Mr. GAINER. Yes; that is correct.

Mr. ASHBROOK. So how is that a restriction? It is not a restriction on the domestic manufacture and sale of these. There are restrictions under the general scope of whatever applies to the Saturday night specials.

We all admit it is very hard to define a Saturday night special. Well, I do not want to take any more time on the question of licensing; but then on it, we said—

Mr. CONYERS. We will come back to you.

Mr. ASHBROOK. All right. Thank you, Mr. Chairman.

Mr. CONYERS. The gentleman from California, Mr. Danielson.

Mr. DANIELSON. Thank you, Mr. Chairman.

Thank you, Mr. Gainer, for your presentation. I am concerned that in this, and maybe some of our other efforts, we may actually [at this point a portion of the record was unintelligible] distributed in each of 11 cities. That is one for each of the metropolitan areas of Federal regions. That cuts down to 45 per agent and if you knock off the administrative personnel, you are down to about 30 or 35 per region. I would imagine.

Mr. GAINER. Excuse me, sir, these would be agents. Administrative personnel would be in addition to this.

Mr. DANIELSON. That is right. But when you have this many new agents, you take some of the existing agents and make administrators out of them. Percentage-wise, in the table of organization, you have to have so many administrators for everybody in these frontlines.

What I would like to know is this. What would these 500 agents be able to do that the duly constituted law enforcement officers of our States, cities, and counties cannot do?

Mr. GAINER. They would be able to use the full panoply of Federal laws that exist today—and that would be added by this bill to reach what the States technically cannot reach today; that is, importation into the metropolitan areas, stopping handgun traffic before the handguns reach the metropolitan areas getting them at the manufacturing or delivery stage.

Mr. DANIELSON. I see, the manufacturing and delivery. You mean by that importation, I suppose.

Mr. GAINER. Importation also, but most of the problem——

Mr. DANIELSON. Where is the delivery stage?

Mr. GAINER. Into the metropolitan area. Largely we are speaking of gun running.

Mr. DANIELSON. You are talking about a black market in guns.

Mr. GAINER. That is correct.

Mr. DANIELSON. Now you think these 500 agents spread out across the country could stop this black market in guns. How would they do that? By searching everybody who crosses a State line? What would they do?

Mr. GAINER. No; they would simply be able to investigate, with an increased contingent the offenses we know are being committed today. We simply do not have the manpower to investigate, and we do not have all the legal authority we need to stop the gun running since current law has enough loopholes to make it largely unenforceable.

Mr. DANIELSON. As I recall in police work, you really have two phases. Police work is preventive. A policeman acts in advance of a crime to try to prevent it from happening. An investigator waits until a crime is committed and then he tries to find out who did it and so forth.

Mr. GAINER. But remember, the crimes that the Federal agents would be looking to are not the ones that the local police necessarily would be looking to. The Federal agents would be trying to find those who are bringing, or conspiring to bring, weapons into the metropolitan area without legal authority to sell or transfer the weapons. The local police by and large would be looking for individuals who have actually used the weapons in the course of violent offenses, and to a certain extent to ascertain those individuals who hold weapons in violation of local law.

Mr. DANIELSON. Your response, I submit, presumes that there is some type of a conspiratorial black market, an organized traffic in handguns. Am I right in that respect?

Mr. GAINER. The evidence indicates that there is.

Mr. DANIELSON. That is interesting. I do not recall of any previous testimony that substantiates that, but you may have a very good and novel point there. You say that local officers cannot just search everybody. Are these agents going to be searching everybody for the weapons?

Mr. GAINER. No; they cannot. That is not their function. They would be examining records, primarily arrest records and records kept by dealers concerning handgun sales.

Mr. DANIELSON. Does the black market keep records, the black market you are speaking of is illicit traffic, do they keep records of their importations and so forth?

Mr. GAINER. Yes. To the extent that we have dealers today who are selling to strawmen, we have records concerning the existing black market. We cannot use those records, though, because there is no adequate means of ascertaining who is buying the weapons. We have no knowledge as to whether one individual is buying 50 guns in a locality in a matter of 2 or 3 days with 50 different identification cards; or whether those are all 50 legitimate purchasers. With a presale

screening device required for purchase of handguns from firearms dealers, we would be able to ascertain who is getting the weapons. With the requirements of a local police check, one would be able to come to a conclusion quite readily as to whether or not the individual is using phony identification.

Mr. DANIELSON. You feel then that there is work to which these 500 new agents could be put which would make a material contribution to restricting the flow of illegal handguns?

Mr. GAINER. We do, the Criminal Division does, and the Department of the Treasury does. Yes.

Mr. DANIELSON. I am glad to hear you have that reassurance. Thank you very much.

I yield back the balance of my time.

Mr. CONYERS. I recognize the gentleman from New Jersey, Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman. Thank you, Mr. Gainer.

I gather the administration legislation would do roughly four things. It would tighten up on the dealerships and make certain that we have bona fide dealers trafficking in weaponry, a 14-day waiting period, and an affirmative check by those dealers; a ban on the Saturday night specials, and finally, mandatory sentences. Four aspects, is that about the extent?

Mr. GAINER. That is roughly it. There are some other little fillips included also.

Mr. HUGHES. I just wonder how much input did the various U.S. attorneys across the country give to this bill when arriving at the policy interpretations which apparently are incorporated in the legislation?

Mr. GAINER. There were two occasions in which U.S. attorneys discussed with us the problems in particular areas in which they have had experience in prosecutions. Most of them were from urban areas. On the first occasion, I think there may only have been a couple present. On the second occasion I think there were four or five.

Mr. HUGHES. Can you identify for me who they might have been?

Mr. GAINER. The U.S. attorney in New York, Mr. Curran, the former U.S. attorney in Chicago, the U.S. attorney in New Orleans, I am not sure whether the U.S. attorney in the district of New Jersey was present or not. There were one or two others.

Mr. HUGHES. How about local?

Mr. GAINER. The U.S. attorney in Detroit was one.

Mr. HUGHES. How about local State officials, did they give any input to the administration?

Mr. GAINER. We talked to local and State officials only indirectly, in that we talked to representatives from the Police Foundation, the U.S. Conference of Mayors, the Urban Coalition, and others. I suppose we could say that we had at least the second-hand views of a good many local authorities.

Mr. HUGHES. Was any of this reduced to a report of any kind that was utilized by the administration?

Mr. GAINER. No report was prepared specifically on those meetings. There were some materials prepared in examining the possibility of undertaking a regionally triggered approach to restrictions on the use of handguns. There was a general memorandum exploring the

range of possibilities available, going all the way from a total ban on weapons to arming everybody in the country, and virtually everything in between. Those are the two primary documents that have been produced within the Department for in-house use.

Mr. HUGHES. Aside from the data that appears in your testimony, was there other data, statistics that were utilized in arriving at the policy determinations that are found in the legislation?

Mr. GAINER. We had a series of meetings with the Treasury people who were able to supply a wealth of data and a wealth of practical experience. We talked to Treasury officials at all levels. We had also spoken to FBI people who had been collaterally involved in the problem. Their authority is not direct, of course. We had culled the literature, and found that there has been a great deal written on the subject, far more than we had originally anticipated.

There is a great deal on both sides of the issue, of course, as to whether there should be any form of handgun controls at all. We found of particular value the studies of the Chicago group and some others concerning the incidence of handgun violence, the effect of dilution of handgun density, the rate of victimization, and a variety of other factors.

Mr. HUGHES. Was there any effort to talk to any of the people who were actively engaged in the prosecution of offenses at the local level?

Mr. GAINER. At the local level?

Mr. HUGHES. Yes.

Mr. GAINER. No, not directly.

Mr. HUGHES. The point I am getting to is I see some things that particularly disturb me that indicate that perhaps, and it happens not just with the administration, it seems too often that we seem to be talking to people in Washington looking at reports. We do not seem to be talking too often with people who are charged with the responsibility of prosecuting the offenses. You mentioned you talked to Treasury. Did Treasury inform you of any of the problems involved with the existing tracing law?

Mr. GAINER. Yes.

Mr. HUGHES. I do not see anything in there that would cure the obvious problems of the tracing law.

Mr. GAINER. Tracing, of course, is a remedial function rather than a preventive function. It is important.

Mr. HUGHES. How did you arrive at that point, that it is remedial and not preventive?

Mr. GAINER. It is primarily remedial. It is primarily a means of ascertaining the last record owner of a handgun found to have been used in a crime. It is not a means that directly prevents the use of that weapon in a crime. There is some preventive aspect to a registration system, however indirect, in that an individual, knowing that a gun could be traced back to him through the person to whom he sells it, may be a little loath, more loath than he is today, to sell it to a person of questionable reputation.

Mr. HUGHES. That is clearly preventive, is it not?

Mr. GAINER. Yes; it is preventive to that extent, to the degree that the Federal criminal law has a deterrent effect—something that can be debated given the state of the current criminal justice system.

Mr. HUGHES. Does the administration feel that the tracing aspects of the 1968 gun control law has any useful and beneficial effect in both the prevention and the solution of offenses in this country?

Mr. GAINER. Clearly, it has a beneficial effect.

Mr. HUGHES. Then why in the world are we not talking about trying to make the tracing law, as it presently exists, a little more effective? Right now we keep a record of the manufacturer, the sale to the wholesaler, to the retailer, to the first purchaser, and it stops right there.

Mr. GAINER. It began in 1968 and it covers only new weapons, so it is limited. But given the rate of sale of new weapons, it covers a whale of a lot. Given the temporal relationship between gun purchase and handgun use, it covers a higher percentage, even, of handguns that are used in crime. It is of value, there is no doubt about it. You are talking about something of considerable value.

Mr. HUGHES. Would it not be of more value if in fact we did two things with the tracing law, two very simple things. First of all, centralize that information, presently and I see as a matter of policy you are indicating there will be no centralization. Why are we not putting it on computer first of all so that the Alcohol, Tobacco and Firearms section will have it readily available? It will bring us into the 20th century.

And second of all, extend it to the second and the third purchasers and the other transferees. Would that not be of immeasurable benefit to law enforcement in this country?

Mr. GAINER. There is no doubt that it would be of benefit.

Mr. HUGHES. Why is the administration not supporting that? It is very simple.

Mr. GAINER. Registration, peculiarly enough, is one of the more emotion-arousing issues in the area of gun control.

Mr. HUGHES. So are homicides very emotional and assassination attempts and a lot of other things that are very emotional.

Mr. GAINER. Mr. Hughes, I agree with you. I am simply trying to provide an answer to the query.

The general concern of those who oppose any handgun controls is that through a central registry available to the Federal Government, a Machiavellian administration may undertake some midnight raid, using the Army 10 years hence, confiscating all weapons held by householders in the country. Now however much you might discount that possibility, however much I might discount it, this is something that some people honestly believe. Since registration does not have a direct, but does have a collateral preventive aspect, it was not seen as that important as a preventive measure when weighed against that concern.

There is no doubt that registration records are very valuable in tracing weapons. Under the de facto registration system that exists today, a noncentralized system, the ATF people can trace weapons quite readily. As I recall, the weapon used to shoot Governor Wallace was traced in about 10 minutes. That used to kill Dr. King was traced in about 20 or 30 minutes. They can do quite well, but you are right. The system is limited to those new weapons sold since 1968. There are a variety of additional approaches one can take in that area. There could be a central registration.

There could be a central registration available to the Government only on an individual inquiry basis. There could be a transfer notice system that would not be a direct registration scheme, but would require individuals wishing to sell their handguns to do so at dealers' offices, with the dealers filling out the same Federal forms as they do today when they sell a handgun. That latter approach would create a de facto source of registration information over a period of a generation anyway, without causing the concerns that have been prompted by a central registration system. There are a variety of approaches that can be used to achieve the same result.

Mr. HUGHES. Well, aside from the emotional aspect of it, what other objection does the administration have to extending the 1968 gun control tracing aspects?

Mr. GAINER. Are you talking about computerizing the information?

Mr. HUGHES. I am talking about two things; computerizing it so that ATF does not have to go to each one of the stages, the manufacturer, then to the wholesaler, then to the retailer, which consumes time.

Mr. GAINER. That can be done as a matter of law probably. However, as ATF interprets it, there is a very strong indication that it was not the congressional intent in passing the 1968 legislation to allow for general access to the dealers' records of sales to individuals. Therefore, ATF is quite loath to propose computerization of this aspect of records without an indication by Congress that this was not intended to be proscribed.

Mr. HUGHES. I think it was Congress intent, at least I hope it was, that they would make the law effective. And I just cannot imagine, with all of the computers we have around this town, that somebody in the administration did not think a long time ago that perhaps it might be a big help.

Mr. GAINER. ATF has thought about it.

Mr. HUGHES. Well, that is good. We are moving in the right direction anyway.

And the second thing is: We have presently a tracing law, so we are away from, hopefully, the emotional aspects. We already have a tracing law that is totally ineffective. Now, we should be doing one of two things. We should either be scrapping what we have or we should making it effective, one or the other. We should either be extending the law so that we require any transfers in the future, any subsequent sales from the second to the third purchaser, or we should do away with the tracing. It just does not make sense to me to have half a loaf.

Mr. GAINER. Well, in the ideal world, I suppose a full loaf might be better than half. We have half a loaf today. It is better than nothing. It is partially effective. I would not agree that it is totally ineffective. We can trace many weapons that are used in the course of crimes. I think one key reason why this approach has not engendered the same sort of emotional response as more direct registration schemes is because it is decentralized. The Federal Government does not have routine, general access to all dealers' records; it has to go out with an individual weapon and say: "Who bought this?" Also, it is a de facto scheme that

does not, on its surface, raise the concerns of those who are concerned about registration per se.

Mr. HUGHES. Well, I suppose there are very few issues that we are confronted with today that do not invoke some emotion. I would suggest to the administration that even though there is some emotion that the greater proportion of the people, I believe, at least in my district which is a very rural district, it has a lot of hunters, a lot of people that are involved in target shooting, that have a legitimate interest at stake, by and large the people feel we have to have some form of additional gun control.

Mr. GAINER. We found that, too. We found that the hunters and the target shooters, by and large—those that we talked to as individuals rather than as organizations—generally do favor some sort of approach that would reduce the incidence of handgun violence.

Mr. HUGHES. Let me ask you on a related subject. I see where even though we have a 14-day waiting period in the administration's bill, there is no requirement that the local police run an FBI check. Have you compiled any data that would indicate what kind of uniform reporting we have, even within the counties or within the States?

Mr. GAINER. There is no uniformity.

Mr. HUGHES. Then why are we not first of all requiring that there be an FBI check? Why is it that we hesitate to really make the 14-day waiting period realistic?

Mr. GAINER. I think it is realistic, Mr. Hughes. What we are talking about is an inquiry by local police. There were 120 police officers killed last year, over 70 percent of them were killed with handguns. The local police we have found are as interested as any other one group in this country in having effective handgun laws. They are the ones who are getting shot with them.

Mr. HUGHES. I agree, but the fact of the matter remains that even within counties one municipality does not know who the felons are of another county.

Mr. GAINER. That is the reason for the FBI name check.

Mr. HUGHES. Well, there is no requirement that there be an FBI check, apparently.

Mr. GAINER. Again, Mr. Hughes, it would seem that if an individual says he lives in a community, if the police chief finds he does live in the community and if the individual is reported to the police chief as being an individual who is seeking to purchase a handgun, that police chief has an incentive simply to write or cable the FBI for a name check and have the information sent to him within a 4- or 5-day period to see if it indicates that the individual has a criminal record any place in the country.

Mr. HUGHES. Why not require that?

Mr. GAINER. It could be required.

Mr. HUGHES. Why not do it? It does not make sense. If we know there is no uniform reporting and you are going to have a 14-day waiting period, why not require them to utilize the tools we have at our disposal to make sure they do not have a criminal record or a felony record?

Mr. GAINER. Mr. Hughes, if you can find a constitutional way for the Federal Government to force the individual police departments

scattered throughout the country to do something, we can indeed. I am not saying it cannot be done. I am saying that this was not further explored after initially devising two different approaches because it seemed that as a practical matter the local police are those with the primary interest in assuring that there is indeed an FBI name check concerning every applicant that lives within their jurisdiction.

Mr. HUGHES. Are we not going to license the dealers?

Mr. GAINER. Yes, indeed; they are licensed now.

Mr. HUGHES. Does that not give us the kind of handle on it that we would need?

Mr. GAINER. We can and would require the dealers to ask the police to check their records. I do not think however, that the dealer's license would give a sufficiently direct handle to go from the dealers to the local governmental authorities.

Mr. HUGHES. Well, I think it would. In the Constitution I cannot see any problems. I cannot imagine why the administration would find any problems with it. If we have a constitutional right to license, we certainly have a constitutional right to require them to make a legitimate check, a realistic check.

Mr. GAINER. But we are not licensing police authorities, of course.

Mr. HUGHES. No one said we are licensing them. We are going to be licensing the people who are trafficking in weapons.

Mr. GAINER. My own feeling is that a constitutional means probably can be devised to do that. I do not know. We have not carefully explored that area simply because it did not seem to be a requisite to effective control, given the material inducement that local police have to obtain an FBI name check.

Mr. HUGHES. One additional question, Mr. Chairman.

You indicate in your testimony that the 14-day waiting period would induce us to exclude felons and others that should not be receiving weapons. What falls under that other category besides felons? You are talking about those, say misdemeanants?

Mr. GAINER. No, not misdemeanants. Those who have a history of mental aberration, who have been institutionalized, and who have not had that disability removed under Treasury regulations; minors; users of certain drugs—the same list that exists in the existing statute.

Mr. HUGHES. How about people who are convicted of possessing a weapon in the States and through plea bargaining instead of becoming a felony or a high misdemeanor, becomes a misdemeanor, would they be included?

Mr. GAINER. They would not be.

Mr. HUGHES. Well, that just seems incredible to me.

Thank you, Mr. Chairman.

Mr. CONYERS. Mr. Ashbrook?

Mr. ASHBROOK. Yes, I would like to ask a couple of additional questions. I know we have other witnesses. But let me just say for the record that having listened to your response to my friend and colleague from New Jersey, I want to correct one statement you made about us featuring administrations doing all of these things. From what you have indicated, this administration, your department, is well on the way to doing them right now.

I call your attention to your statement and some of the things you said. You gave a clear indication you are doing the very best you can

to register through the back door and avoid emotional issues. You even went so far as to say that under the de facto registration of weapons we have today, we can trace, and you went on from there. Would you explain the de facto registration of weapons we have today?

Mr. GAINER. The 1968 act required dealers to keep records of all sales of firearms to individuals. The manufacturers and distributors also must keep records. Those records must be made available to the Department of the Treasury upon Treasury's request. When a Treasury agent finds a weapon that he suspects has been used in the course of a crime, he can report that to ATF. ATF can then ask the maker of that weapon, describing it by model and by serial number, what dealer that weapon was sent to. The dealer can then be contacted—by telephone if necessary. He can be asked to whom he sold that weapon. The dealer shuffles through his card file and indicates the individual to whom he had sold that weapon.

It can therefore be traced. It is an effective tracing tool. It has been utilized and it has been very useful in solving many offenses.

Mr. ASHBROOK. All right. Then if in H.R. 9022 we could just extend that to the transfer, as against the sale, which is implicit in your bill, then little by little, by the process of attrition we would have done by the back door, what you say you did not want to do by the front door, you literally would have registered every firearm, sooner or later, in this country.

Mr. GAINER. This bill does not require the keeping of records of a private transfer.

Mr. ASHBROOK. It certainly gives the authority to the Secretary to approve in your section K, the sale or transfer of any handgun model, et cetera. I think there is the implicit power there. It is astounding to me in listening to your response to Mr. Hughes—Mr. Hughes obviously has a different point of view than I do and that is his right and I certainly respect it—but you clearly give the implication you are doing the very, very best you can to get at registration through the back door.

Mr. GAINER. We are doing the very best we can to enforce the existing laws and to reduce the incidence of handgun violence to the extent we can. This is our duty. The Department of Justice is materially interested in the problems of handguns because handguns are the guns that are used in crime. We have a direct interest, and we are in fact doing our best to stem that problem.

Mr. ASHBROOK. And you directly state that except for the emotionalism in this country, you would probably be doing more. Is that not correct?

Mr. GAINER. If the Congress provided the tools to do more, of course the Department would be enforcing the laws that the Congress passes.

Mr. ASHBROOK. I will repeat what I said. I do not think our fears are directed at some future administration. I kind of have a few concerns about the direction we heard in the testimony today.

Thank you, Mr. Chairman.

Mr. CONYERS. Well, nothing more clearly illustrates the fallacy of the Federal legislative process than that observation. If the Congress gave you the tools to do more and you are here testifying on an administration bill written and drafted outside of Congress, with everybody but Congress involved in it, and now you are suggesting to us that we

should do something. Well, the best way we could do it would be to reject whatever it is you are bringing up here, it seems to me.

Now, let me ask you this. Do you have the notion that registration schemes are unpopular in the United States?

Mr. GAINER. I think one could generally perceive that there are many groups in the country with whom such schemes are indeed unpopular. I think probably the unpopularity of such schemes has been grossly overemphasized. I think probably it is less unpopular than is generally—

Mr. CONYERS. Do you know they are popular with more people than they are unpopular?

Mr. GAINER. All the polls over a period of 10 years or so—beyond that—indicate that the majority of the American people favor some sort of effective control of handguns, and the majority of gun owners also favor effective controls of handguns.

Mr. CONYERS. I am talking about registration schemes. I am not talking about effective controls of handguns. I am saying, are you aware that there is a popularity among the citizenry for the notion of registering weapons?

Mr. GAINER. I think most of the polls—and I do not know how one ascertains the views of the citizenry as a whole, other than talking to individuals, representative groups and so forth, and by attempting to ascertain what is meant by the result of the polls—most of the polls indicate that people feel something needs to be done. Most of the questions utilized by the polling services are not such as would indicate the particular nature of the scheme that most persons would feel appropriate.

Mr. CONYERS. Well, then you have not seen the registration polls. That is what you are telling me, is that the idea? I mean, have you seen the polls taken by the pollsters on the question of registration?

Mr. GAINER. I have. I do not recall the specific results frankly. I have seen a dozen or so different polls.

Mr. CONYERS. Let me refresh your memory then: 67 percent of the people favor registration of all guns.

Mr. GAINER. And that is down from a year or so ago.

Mr. CONYERS. Now you recall a little bit more about it. I am happy to know that your memory is being refreshed. Now, is the term "Saturday Night Special" used in this bill?

Mr. GAINER. Yes, it is in the introductory portion.

Mr. CONYERS. But not in the body?

Mr. GAINER. Not in the body of the bill.

Mr. CONYERS. Is there some need to persist in the use of this colloquial term, in terms of the legislative process, so that we spend hours upon hours of arguing about what who means by the use of that term?

Mr. GAINER. Not at all. The sporting purpose test I think would be a sufficient means of describing those handguns which fall within or without the category we wish to cover.

Mr. CONYERS. I am glad to hear that because it is a term that has become to me more and more unnecessary in the discussion of firearms regulation. And it has been used quite a bit in this discussion we have had here this morning.

Now, what about a definition of "particularly suitable for sporting purposes"? Is there one on this proposed piece of legislation?

Mr. GAINER. The incorporation of the modified Treasury factoring test is a particularization of factors that would be looked to in evaluating sporting purposes.

Mr. CONYERS. Well, it says, "and that". That sounds additional to me. It does not sound definitive of that phrase that precedes it.

Mr. GAINER. It is not definitive. It is to be made clear that at the very minimum any weapon would have to meet the particular factoring criteria.

Mr. CONYERS. And I would suppose then that the answer to my question whether there is a definition with regard to the phrase, particularly suitable for sporting purposes, the answer would be no?

Mr. GAINER. The answer would have to be no.

Mr. CONYERS. And what about a definition with regard to particularly suitable for sporting or valid defensive purposes. Is there a definition contained within the proposed legislation with regard to valid defensive purposes?

Mr. GAINER. There is none at all.

Mr. CONYERS. Well, since you mentioned Zimring, that was one of the criticisms that he pointed out in terms of the 1968 legislation, is it not?

Mr. GAINER. The sporting purpose provision? Yes, in an article on the 1968 act which appeared about a year ago he indicated the problems with that definition. This bill is an attempt to avoid some of the problems that have been occasioned by the current language. It is an attempt to set forth with a little more particularity what is meant by "Saturday Night Specials." There is no doubt there is a great problem in attempting to define what kind of handgun one wishes to exclude from circulation. There are many approaches that can be tried. This is one of them. A regressive tax is another.

Mr. CONYERS. Well, pardon me, but this definition and the factoring criteria did not reduce the number of cheap handguns in the 1968 Gun Control Act, did it?

Mr. GAINER. It reduced the number coming into the country from the outside, but left a gaping loophole that permitted the parts, as opposed to frames and completed weapons, to be imported and assembled and inserted in frames made here. It also left a gaping loophole in that they could be manufactured in their entirety in this country.

Most of the manufacturers in this country, as you know, do not produce weapons falling in the general class of weapons sought to be excluded. There are some that do, particularly those producing the short nose revolvers made for police detectives and so forth.

Mr. CONYERS. They do now as a result of the 1968 gun law which prohibited the importation of the ones that were coming in from abroad. That was exactly what happened, as a matter of fact. People began making domestically cheap handguns in a greater number than ever.

Mr. GAINER. There have been a great many manufacturers doing that. One is even employing the handicapped in order to get some local, favorably publicity for his making of "Saturday night spe-

cials." But Smith & Wesson, Sturn Ruger, High Standard, Colt, and the other reputable manufacturers, simply are not producing guns of this nature.

Mr. CONYERS. Were they in on the discussions and constitute some of the private organizations that were the discussants in the formulation of this legislation?

Mr. GAINER. I talked to representatives from those four manufacturers quite early in the Departments' discussions. It was at their request. We were discussing at that point primarily whether they were against any form of gun control legislation or not. They were all quite clear that they favored some legislation dealing at least with "Saturday night special," and indicated a great willingness to assist the Department of the Treasury in attempting to define what is meant by that colloquialism.

We had talked to them as representatives of the National Shooting Sports Foundation. We had talked to several others who are generally opposed to gun controls.

Mr. CONYERS. Who?

Mr. GAINER. The National Rifle Association, the Citizens Committee for the Right to Keep and Bear Arms, the Sporting Arms and Ammunition Manufacturers Institute, the National Firearms Abuse Committee, the National Sporting Goods Association, and representatives of individual handgun manufacturers. However, we talked to more groups, because there are more in number which strongly favor some sort of a more effective Federal firearms policy, including the National Council for a Responsible Firearms Policy, the National Council to Control Handguns, the National Coalition to Ban Handguns, the Citizens Alliance for a Safer Community, the National Council on Crime and Delinquency, the International Association of Chiefs of Police, the ABA's Criminal Justice Council, the American Civil Liberties Union, the Police Foundation, the U.S. Conference of Mayors, the sponsors of the Massachusetts Barkley-Fox handgun law, the National Urban Coalition, and a variety of others.

We found a great divergence of views.

Mr. CONYERS. What about the importers?

Mr. GAINER. I recall none representing importers.

Mr. CONYERS. Did you mention Smith & Wesson?

Mr. GAINER. Smith & Wesson was one of those in attendance at the meeting with representatives of the National Shooting Sports Foundation.

Mr. CONYERS. Was Colt present with any representatives?

Mr. GAINER. Colt had two representatives at the meeting I attended. I understand there was a subsequent meeting which another person in our office attended. I think representatives from Colt, Sturn Ruger, Smith & Wesson, High Standard, and maybe one other were present at the time. Those four manufacture roughly 70 percent of the handguns being sold in this Nation, and a much higher percentage of the high quality handguns.

Mr. CONYERS. I am impressed by that. Now, does the National Rifle Association manufacture handguns?

Mr. GAINER. No, of course they do not.

Mr. CONYERS. Are they manufacturers or connected with the manufacturers?

Mr. GAINER. Well, we found that the National Shooting Sports Foundation took great pains to distinguish its views as an institution from those of the National Rifle Association.

Mr. CONYERS. Well, what was the National Rifle Association's concern with this question of criteria and manufacture? These other organizations it seems might have a much more direct relationship.

Mr. GAINER. As I recall in the discussion with representatives from the National Rifle Association, to the extent that the discussion focused upon inexpensive, cheap handguns, it did not go into such detail as to indicate what might be incorporated in a prohibition, but was generally on the overall problems of defining, with sufficient particularity, what is meant.

Mr. CONYERS. Finally, how does the factoring criteria differ from that which is already in existence in the 1968 Gun Control Act?

Mr. GAINER. Well, the 1968 Gun Control Act, of course, has no specific set of factoring criteria governing the importation of weapons. It simply says that they must serve a sporting purpose. The Treasury Department, through regulation, has developed a factoring test to screen these weapons that are to be imported.

What is incorporated in the bill is a modification of the latest version of that factoring test that was worked out with several representatives from the Treasury Department. Basically, it is the version they wish to be using today, with an extension of the barrel length on revolvers from 3 inches to 4 inches. There are a couple of other minor variations from the Treasury draft. There are a couple of changes in the descriptions of handgun caliber because as originally drafted there were a few gaps in between 9 millimeter and 0.357 magnum and 0.38 special and so forth, that technically would not have included all possible calibers under their formulation. It was a matter of a technical variation, for the most part, of their test.

Mr. CONYERS. What was the reasoning behind embodying this factoring criteria into Federal law as opposed to the 1968 Gun Control Act?

Mr. GAINER. The 1968 Gun Control Act approach could be taken. It could simply refer to sporting purpose.

Mr. CONYERS. Well, was there anything that led you to change this pattern?

Mr. GAINER. The pattern was changed only because Treasury seemed to feel it would be of advantage to have the support of a congressional enactment setting forth specific criteria. It could work either way.

Mr. CONYERS. Do any of the other members of the subcommittee seek recognition?

Yes, Mr. Danielson?

Mr. DANIELSON. Mr. Gainer, I am directing your attention to section 8 of your bill, the one which would provide for a mandatory sentence. This may have been touched upon before, but I want to expand slightly. You provide, starting on line 13, "that whoever uses a firearm to commit any felony for which he may be prosecuted in the court of the United States," et cetera. I am mindful of the fact that probably the use of a firearm in connection with the commission of any crime would make it a felony. I would not want to try to eliminate that one way or another. However, I am also familiar with the fact that oftentimes in

criminal proceedings, a person can bargain to plead guilty to a lesser included offense which would take it out of the category of being a felony and therefore would remove this mandatory imprisonment. I would feel, frankly, that if this is to have a deterrent effect a mandatory sentence should apply any time a person uses a firearm in the commission of a crime which could be prosecuted in a court of the United States.

I would like your comments on that.

Mr. GAINER. You are right in that an offense not charged is not going to be prosecuted, and if it is not prosecuted there is going to be no sentence imposed. This is part of a far broader problem, as you are obviously very well aware. The Attorney General has expressed concern about the general process of plea bargaining, as it is known. Generally Federal prosecutors limit plea negotiations to matters of counts rather than matters of sentence. Nevertheless, it is an area that requires exploration.

Recently the whole area of discretion in the criminal justice process, judicial discretion and prosecutorial discretion, has been coming under a little closer examination. The Attorney General has indicated that he intends to set up a committee to examine carefully the whole problem of plea negotiations. I would anticipate that the utilization of plea negotiations to negate the effect of a statute of his nature would be one of the primary areas that that committee's attention would be focused upon.

Mr. DANIELSON. Well, do you suppose the Department of Justice would oppose—if we get tot his stage in marking up this bill I would certainly endeavor to amend it to include all offenses — would that meet with opposition from the Department of Justice?

Mr. GAINER. To modify the bill in what respect?

Mr. DANIELSON. To have a mandatory sentence to apply to any crime, to the carrying of a firearm, possessing of a firearm in connection with any crime which could be prosecuted in the court of the United States: otherwise, a misdemeanor in other words.

Mr. GAINER. The offenses would otherwise have to be felonies.

Mr. DANIELSON. That is what the language says. It would not say that if I drew it. That is why I am asking if you would oppose it at that time.

Mr. GAINER. Well, there are a tremendous number of Federal misdemeanors. There are about 800 to 1,000 outside title 18 alone. Carrying a weapon in the course of dumping mercury in a stream may be somewhat irrelevant; carrying a weapon in the course of cheating on income taxes might be irrelevant.

Mr. DANIELSON. It might be, but then again, it might not.

Mr. GAINER. I understand that. I am not trying to make light of it. What I am trying to suggest is there are a variety of Federal regulatory provisions that would be encompassed by broader language of that nature. You might wish to consider particularizing it, indicating a misdemeanor in which a potential of violence exists—a misdemeanor involving a lesser form of the offenses against the person category; the property offenses of a nature that also threaten the safety of persons, such as robbery, burglary, arson, and so forth; and other such lesser included offenses.

Mr. DANIELSON. I want you to bear in mind that under the language

as it is now written, carrying a handgun while you file a false income tax return would be included.

Mr. GAINER. You are right. It is included.

Mr. DANIELSON. Or conceivably, if sending dentures through the mail.

Mr. GAINER. That is correct.

Mr. DANIELSON. So the language as now drawn is not devoid of the very fallacies which you attribute to my suggestion.

Mr. GAINER. You are correct.

Mr. DANIELSON. Anyway, on that I want to commend Mr. Ford, since I know this bill would not have reached here without his approval, for having finally come around to the thinking of many of us that there should be a mandatory sentence for the use of a firearm in the commission of a crime. There is nothing novel about it. Many of us have sought that for many years, but we welcome his support and perhaps we can get something done with it.

Thank you.

Mr. CONYERS. We all thank you.

It is curious, however, that in the course of the President approving this legislation, this matter has still not been filed, the bill that is with the Speaker of the House, or the President pro tempore. Is that inadvertent?

Mr. GAINER. I was not aware of that. It has been introduced on the House side and it has been introduced on the Senate side. It was supposed to have been transmitted to the President of the Senate and to the Speaker of the House.

Mr. CONYERS. There has been no letter forwarded to our knowledge, which is fairly appropriate in these matters.

Mr. GAINER. I will ascertain if it has been sent.

Mr. MANN. Mr. Chairman?

Mr. CONYERS. Yes?

Mr. MANN. I have one matter I would like to bring up. This is going to be a rather peculiar discourse, Mr. Gainer.

Mr. GAINER. I have had a great many peculiar discourses in the process of working on possible handgun legislation.

Mr. MANN. In one or more prior hearings I have deplored the lack of enforcement on the local level of the laws involving the carrying of concealed weapons. Based largely on my experience as a prosecuting attorney in the South, when the carrying of that weapon in the beer joint on Saturday night—while I suspect that not less than a third of the homicides that I tried arose from that situation and in an effort to encourage or support local law enforcement with reference to carrying concealed weapons, I have searched about, including discussing with the Chief Justice of the United States the possibility of an electronic search of individuals in certain situations. And given the private example, for example, if I took this microphone as a uniformed officer and walked through all the joints in Greenville, S.C., and kind of waved it around on a Saturday night, the following Saturday night there would probably be 50 percent less weapons on the hip.

I question though whether or not the use of an actual electronic device under those circumstances would be—even though it is, of course, a statutory offense to carry a weapon off your own premises—I question whether or not that would be in accord with the Constitution on

search and seizure. And because of that, I was somewhat curious to observe on the Today Show this morning, that electronic searches were being carried out on the public in reference to the President's visits.

I would appreciate any assistance your Department can give to my local law enforcement officers as to how they might do that.

Mr. GAINER. Apparently, technology is catching up with your concept. You are right that there is an interesting question as to whether or not an electronic search is sufficiently analogous to an electronic surveillance to pick up conversation that the principle of the *Katz* case would apply. A lawyer could argue it either way. What the courts will decide in this area, I am not sure. Certainly there is not the same degree of invasion of privacy as would obtain in a situation where a conversation—a private conversation, made under circumstances in which the individual reasonably felt it could not be overheard—was the subject of an electronic surveillance.

Mr. MANN. Thank you.

Mr. CONYERS. Well, Mr. Gainer and Ms. Skrivseth, technology may be catching up with this concept, but "Big Brother" may be overtaking us all. Thank you very much for your helpfulness here this morning.

Our next witness is the Assistant Secretary of the Army, Hon. Harold Brownman. He is accompanied by Col. Jack Rollinger and, perhaps, others whom they will identify.

Welcome, Mr. Secretary and Colonel. We are delighted to have you before us. We appreciate your diligence in preparing your statements and a résumé which will also go into the record that more fully identify you and your prior activities.

We turn now for an examination of the National Board for the Promotion of Rifle Practice in the civilian marksmanship programs. Your statements will be incorporated into the record at this point, and you may highlight them for us in your own way.

[The prepared statement of Hon. Harold L. Brownman follows:]

BIOGRAPHICAL SKETCH OF HAROLD L. BROWNMAN

EDUCATIONAL BACKGROUND

B.E.E., Polytechnic Institute of Brooklyn, 1944.

M.E.E., Polytechnic Institute of Brooklyn, 1949.

Has completed all the course requirements for the degree of D.E.E.

PROFESSIONAL EXPERIENCE

Mr. Brownman served with the Central Intelligence Agency (CIA) from October 1970 to August 1964 and was the head of the Office of Special Projects until February 1973. In this position he managed several highly sensitive national intelligence collection programs. For the remainder of his tenure with the CIA, Mr. Brownman was the Deputy Director for Management and Services. This directorate was responsible for overseeing a broad gamut of management issues which originated from throughout the entire agency.

In June 1969 Mr. Brownman was made Vice President—Systems of the Garland Division of LTV ElectroSystems, Inc., with overall responsibility for the design and development of electronic systems produced in the product lines of Communications, Data Systems, Electronic Warfare, Guidance Systems, Space Systems, and Special Projects.

From January 1967 to June 1969 Mr. Brownman was Product Line Director of the Space Systems Department of LTV ElectroSystems, Inc., Garland Division.

From June 1966 to January 1967, Mr. Brownman was Assistant to the Division Director for Systems Engineering in the Engineering and New Programs Division at Airborne Instruments Laboratory (AIL), a Division of Cutler-Hammer, Inc.

Prior to that time he was Head of the Data Systems Department in the Engineering and New Programs Division. This department was primarily engaged in the development of complete data processing and display systems. Some of these systems have been developed to process electronic reconnaissance data for various types of collection systems. As an outgrowth of this work, the department actively participated in defining collection system requirements.

Mr. Brownman joined AIL in 1958 as Chief System Engineer of the USD-7 program management team and later became Technical Director. In 1961, he was appointed Department Head of Ground Support Systems in the Research and Systems Engineering Division. In the course of expanded activities and continued growth of the department, it has become the Data Systems Department.

From 1955 to 1958, Mr. Brownman was employed by Fairchild Camera and Instruments Corp. in reconnaissance system management and planning. He was Program Director of the 306L management team. The 306L program was a reconnaissance system for the Tactical Air Command which included day and night photography, infrared detection techniques, radar, ferret, weather and nuclear radiation systems, as well as the data handling and ground support systems. Mr. Brownman was responsible for a high resolution radar strip recording program employing special electro-optical techniques.

From 1954 to 1955, Mr. Brownman was employed by the American Bosch-Arma Corporation as a Senior Engineer for digital computers. He was engaged in the development of two real-time computers; one for ASE and the other for a missile guidance system (Atlas).

Mr. Brownman was a Project Engineer for the Teleregister Corp. from 1950 to 1954, responsible for design and development projects covering special simulators, analog and digital computers, data handling and special display devices.

From 1949 to 1950, Mr. Brownman was employed by Servomechanisms, Inc. as a Senior Electronic Engineer in the design and development of servo systems and analog computers for commercial and military applications. He was an Electronic Engineer for Fairchild Engine and Airplane Corp., Pilotless Plane Division, from 1948 to 1949, assigned to development of servo systems, analog computers, and the mechanization of a missile guidance system.

From 1946 to 1948, he was an instructor in Electrical Engineering at Polytechnic Institute of Brooklyn, continuing this on a part-time basis until 1953. Mr. Brownman was in the U.S. Army Air Force from 1944 to 1946.

Mr. Brownman is a member of Sigma Xi and the Institute of Electrical and Electronics Engineers, Inc. His activities in the Long Island Section included: 1961-62 Publicity Chairman; 1962-63 Secretary; 1963-64 Vice Chairman; 1964-65 Chairman. He has also served as Publicity Chairman for the G-MTT 1964 International Symposium and has been on the Banquet Committee of the I.E.E.E. International Convention for a number of years. He is also a member of the American Institute of Aeronautics and Astronautics and the National Association of Old Crows.

BIOGRAPHICAL SKETCH OF COL. JACK L. ROLLINGER

Colonel Rollinger was born April 7, 1931 in Akron, Ohio. He attended the Kentucky Military Institute and Ball State Teachers College before graduating from Indiana University with a Bachelor of Science degree. As a Distinguished Military Graduate, Colonel Rollinger received a Regular Army commission and entered the service as a Second Lieutenant in August 1953. Since then he has served with eight different Army divisions, commanding infantry and aviation units in addition to duty in various staff assignments. Colonel Rollinger attended the U.S. Army Command and General Staff College in 1968, served two tours of duty in Vietnam and has twice been assigned on the Department of Army staff before becoming the Director of Civilian Marksmanship in June 1974.

STATEMENT OF HAROLD L. BROWNMAN, ASSISTANT SECRETARY OF THE ARMY

Mr. Chairman and members of the committee, it is my privilege to appear before this committee to discuss the Civilian Marksmanship Program.

The Program was originated in 1903 when the Secretary of War, Mr. Elihu Root, learned that in times of emergency many young men were called to active duty and entered combat inadequately trained to fire their weapons. This was due primarily to the large movement of our population in the late 1800's from the country to the city. Prior to this time, our youngsters had grown up with a rifle in their hands learning to hunt and protect their families. However, with the

movement to the more populated areas, there was a lesser need to use a rifle or learn to shoot.

After learning of the situation, the Secretary of War established the National Board for the Promotion of Rifle Practice which was subsequently chartered under Title 10, United States Code. The mission given the Board was, "to promote among able-bodied citizens, not reached through training programs of the active components of the Armed Forces of the United States, practice in the use of military type individual small arms."

With the reorganization of the War Department, the responsibility for the National Board for the Promotion of Rifle Practice was passed to the Secretary of the Army; although the membership has remained with senior officers of all services as well as Government officials and distinguished civilian representatives.

The Office of the Director of Civilian Marksmanship is the implementing agency for the Secretary of the Army responsible for carrying out the policies and programs recommended by the Board and approved by the Board President. Today this program supports more than 2,400 shooting clubs with a membership exceeding 140,000 boys and girls as well as men and women throughout the country. The return benefits over the years have not only been the young people entering military service with an ability to shoot well, but also a ready reserve of men and women who possess the experience and leadership capabilities to come forward in a time of National emergency to conduct training and manage rifle ranges at our military installations.

More importantly, during time of peace, dedicated club leaders provide valuable training which offers the youth of America an understanding and respect for firearms. This training is conducted with a quality rifle owned by the Government but registered and loaned indefinitely to a club. The young men and women who continue through the junior shooter program will continue to improve their skills by participation in various competitive activities. A growing number will progress to represent the United States as members of international shooting teams in Olympic, World Shooting Championships, and Pan American Games. In 1974 six members of the United States team, including a 16-year-old girl, won a total of 52 medals in the World Shooting Championships at Thun, Switzerland. All of these members were products of the National Board for the Promotion of Rifle Practice sponsored programs.

Mr. Chairman, your Committee is interested in the methods by which private citizens obtain firearms from the Army so at this time I will discuss our governing Regulation 920-20 and describe our system of controls. First though, I would like to make it clear that we do not support a handgun program. Prior to 1968, we loaned caliber .45 pistols to our clubs and made handguns available in the sales program. We no longer loan handguns to our clubs or make handguns available in our sales program. Also, we do not provide or sell handgun ammunition such as calibers .38 or .45. We do, however, loan to our clubs caliber .22 target rifles and provide caliber .22 ammunition. In fact, for the fiscal year ending 30 June 1975, we supported rifle clubs with 17,119 rifles and provided 18 million rounds of caliber .22 ammunition. The ammunition provided a club is based on 300 rounds a year per junior shooter between the ages of 12 and 19. Each club is also loaned rifles according to their membership. To be enrolled, a club must have at least 10 junior members for which four rifles would be provided. One additional rifle is authorized for each five additional members up to 10 rifles per club.

To insure that a club is organized with honorable intentions, there must be at least three responsible adult members who are United States citizens, under whose direct supervision the junior members function in all aspects of this program. A club wishing to enroll with the Director of Civilian Marksmanship must be bonded for the value of Government equipment to be loaned. A fingerprint card and statement of personal history must also accompany the application for enrollment to permit the Director of Civilian Marksmanship to have a National Agency check conducted. Additionally, assurance of compliance with Title VI of the Civil Rights Act of 1964 must be furnished by the club.

The Director of Civilian Marksmanship refers the statements of personal history to the Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department in addition to the National Agency Check Center at Fort Holabird. Further, the club must submit the name of a local law enforcement officer who is contacted if additional information is required regarding club

officials or members. Each year after a club is enrolled, an Annual Report is submitted, listing the club members by name, including their record of firing scores, and the serial numbers of the Government rifles on loan to the club.

In addition to the caliber .22 rifles loaned our junior clubs, we provide senior clubs and state associations with caliber .30 service rifles. There are 4,024 of these rifles on loan at this time. We do not provide caliber .30 ammunition to senior clubs because our program emphasizes support for the junior shooters.

The Title 10 rifle sales program is also managed by the Director of Civilian Marksmanship. Authorization and limitations of sales are controlled by the Secretary of the Army based upon requirements and availability of rifles. This year, 300 M1 rifles were sold. The M1 is the only type rifle which is currently available in the sales program. This is the rifle which was developed during the second World War and also used during the Korean conflict.

The sales program is carefully managed and controlled to insure a rifle is not sold to a person who would be likely to use it improperly. In fact sale of the 300 rifles approved in 1974 required ten months to complete. Each request for purchase must include sufficient information and proof to adequately identify the requestor as a competitive shooter enrolled in one of our clubs or state associations. A record check is first made with the National Rifle Association to verify that the purchaser is a member in good standing as required by Title 10, U.S. Code. The purchase request is then forwarded to the Treasury Department for a law enforcement agency check.

After the requestor has been cleared for purchase, his approved application, together with appropriate payment is forwarded by the Director of Civilian Marksmanship to the United States Army Armament Command for delivery of the rifle. The serial number of the rifle and name and address of the buyer is recorded and maintained by ARMCOM. Additionally, a computer system is being developed for the Director of Civilian Marksmanship. The program should be in operation within the next few months and will contain the serial numbers of every rifle that is loaned to the clubs. Additional information pertaining to the clubs will be contained in the program which will provide responsive answers and will enable intensive management of our equipment. In the past this information was contained only in club folders filed in the Office of the Director of Civilian Marksmanship. In effect, the Army will have a system of registration and gun control which would be compatible with any state or Federal legislation which could be enacted in the future. This is part of the Department of the Army overall effort to insure security and accountability of its entire conventional small arms and ammunition inventory.

In September 1974, the Secretary of the Army directed a complete review of weapons/ammunition security in the Army. The result of this review was a report by the Department of the Army Physical Security Review Board (DAPSRB) which made numerous recommendations to enhance the Army's posture in this area. A copy of this report was provided previously to the House Armed Services Investigation Subcommittee. Significant actions underway to improve Armywide security as the result of the Army report and those which preceded the report included utilization of guards or intrusion detection systems on all arms and ammunition storage facilities, upgrade and repair of all arms rooms and ammunition magazines, upgrade of ammunition storage sites, improved access control and personnel certification systems, closer coordination between law enforcement agencies, development of containers for arms room and intrusion detection system keys, reduction of number of weapons in certain units and increased security measures for weapons and ammunition in the field.

To accomplish the foregoing, the Department of the Army has programmed approximately \$12 million during the next four years for improvement of arms rooms, \$105 million for upgrade of ammunition storage sites, worldwide, and \$12 million for development of intrusion detection systems and containers for arms rooms and intrusion detection system keys.

The results of the success attained in the programs underway are reflected in the statistics concerning loss and theft. While many portions of the programs will not be completed for several years, the command emphasis and measures already employed have resulted in continued reduction of arms losses or thefts from 3039 in 1971 to 471 in 1975, with many losses attributable to personal negligence rather than theft. In August 1975, the DAPSRB began an inquiry into the security afforded weapons and ammunition provided Civilian

Marksmanship clubs with a view toward extending applicable Army programs to weapons on loan. Currently weapons on loan to DCM clubs are secured in accordance with local ordinances.

In summary, Mr. Chairman, I assure you that the Army provides full support and careful management for the Civilian Marksmanship Program within our capabilities. We feel that by providing our young people today with a healthy respect and understanding of firearms, while developing a competitive spirit in a sport which boys and girls equally participate, we are assisting in the development of mature thinking potential leaders of our country who will make sound decisions concerning the proper use of firearms in the future. In addition, we feel that actions underway and planned for upgrading the security of Army weapons and ammunition has and will continue to show improvement in reducing losses of weapons and ammunition through theft or negligence.

TESTIMONY OF HON. HAROLD L. BROWNMAN, ASSISTANT SECRETARY OF THE ARMY, ACCOMPANIED BY COL. JACK R. ROLLINGER, DIRECTOR, CIVILIAN MARKSMANSHIP

Mr. BROWNMAN. Mr. Chairman, it is indeed a pleasure to represent the Department of the Army today before your subcommittee. Colonel Rollinger is the Director of the civilian marksmanship program.

I would like to, before summarizing this statement, point out that Colonel Rollinger, as Director of the civilian marksmanship, reports directly to the Under Secretary of the Army, who has the responsibility for the program. He, unfortunately, is out of the country and cannot appear and, so, I am but a poor substitute.

The reason for choosing me was that, in addition to the normal functions of installations and logistics, I am also responsible for the Army's physical security program, in terms of controls of weapons in various audits.

In terms of summary of the statement, the program was originated in 1903 with the thrust to indoctrinate and educate young people, principally between the ages of 12 and 19, in the use of firearms and to encourage their expertise in that area. This stemmed from a desire of a former Secretary of War, Mr. Root, to improve the caliber of individuals who might go into the Armed Forces, specifically the Army, in terms of their marksmanship capability and also to enhance the ability of people in operating weapons ranges.

The program addresses the sponsorship of rifle clubs, in which the Army loans rifles to these clubs, which are supervised by three responsible adults who are checked in terms of a name check and who have submitted fingerprints and a personal history statement.

We have, in the past, we do now, rather, sell rifles when required by the individual, and I would like to emphasize that the sale is limited to rifles at the current time. However, going back approximately 5 years ago, we did, in fact, sell handguns and handguns were included in the program, but are now excluded.

With that, I would like to submit for the record at this time to supplement my statement, two organizational charts which identify the chain of command and the responsibility of this program in the Army, and an organization chart which identifies the responsibility and methods we use in running the national matches for target practice.

Mr. CONYERS. We will incorporate those into the record with your statement.

Mr. BROWNMAN. Thank you, sir.

Mr. CONYERS. Have the Arthur D. Little (see appendix) studies ever been given any serious consideration about improving efficiency?

Colonel ROLLINGER. If I may, sir, yes; the study was conducted in 1966 and presented to the Army staff. At that time it was approved and endorsed. However, coming up into the time of 1967 with the war in Vietnam, the President of the Board, along with the Secretary of Defense, determined that the civilian marksmanship program should be reduced temporarily for the extent of the war, and this was similar to what had been done in the First World War, Second World War, and in Korea.

So, to date, many of these items that are recommended in the Little report, have not been put into effect. However, the National Board for the Promotion of Rifle Practice in our last meeting in April recommended that these proposals be considered again at this time.

Mr. CONYERS. Is the Board contemplating revving back up again to prewar standards?

Colonel ROLLINGER. No, sir. Many of the things we did before 1968 are considered by the Board to be functions that we would not do now with an All-Volunteer Army, such as pulling targets, for which we used to have some 3,000 active duty troops coming from various parts of the country, to support the national matches. We no longer do that, and we do not contemplate doing so in the near future. We are using Reserve elements as they come on duty in the summertime, in the way of engineers, medics, communication specialists, where they can actually perform their type of duty during summer training, but we do not contemplate going back to use of active duty forces to support the national matches.

Mr. CONYERS. Why do you not proceed, Mr. Secretary?

Mr. BROWNMAN. That would be all that I would like to submit at this time, and we would make ourselves available for questions.

Mr. CONYERS. Well, what is the state of the Army civilian marksmanship program, and what kind of security measures are being effected? I guess those are the two questions. If you answer them—

Mr. BROWNMAN. I have answered them in the statement. I think I can summarize them.

The Army has become very conscious in the handling, storage, and controlling of weapons, and over the past year has instituted a computerized program which identifies all weapons by serial number and location, and this is located at the Armament Command in Rock Island, Ill., and we are going to—we are in the process of upgrading this capability to include the civilian marksmanship program and control of those weapons to insure that we have traceability and hope that the existence of such a system might, in fact, act as a deterrent against somebody who would do something illegal.

We do work with the local law enforcement officers of various clubs to insure and encourage their compliance with the local gun control laws.

Mr. CONYERS. What is the annual cost of the Army civilian marksmanship program?

Colonel ROLLINGER. Sir, the annual budget for 1976 includes \$233,000, and this is primarily to run our organization and issue targets and medals to the clubs. We do have separate appropriations under

PEMA funding that provides ammunition in the amount of approximately \$280,000, with which we purchase 28 million rounds of ammunition. This ammunition is issued to the clubs based on their membership, meaning 300 rounds of .22-caliber ammunition per year for each boy or girl between the ages of 12 and 19. So that would complete our entire funding.

Mr. CONYERS. That is not counting the help you get from the Reserve units?

Colonel ROLLINGER. No, sir, we do not fund for that.

Mr. CONYERS. Spinning that out, how much would it come to?

Individual Reservists were rotated from their civilian occupations and trained for a period of two weeks performing military occupational skills in assigned duties in conjunction with the operation of the Post and support of the National Matches. The cost of this training program was about \$250,000 which was primarily expenses for military pay and travel of the 375 total Reserve personnel.

Colonel ROLLINGER. I would have to provide that for the record, sir. It is just a normal part of their summer training. In other words, if Reserve personnel did not go to Camp Perry, Ohio, to receive their training, they would have to receive the same type of training elsewhere.

Mr. CONYERS. What is the relationship between the National Board for the Promotion of Rifle Practice and the Army civilian marksmanship program?

Colonel ROLLINGER. The National Board for the Promotion of Rifle Practice under title X requires the Secretary of the Army to support a civilian marksmanship program and to conduct annual national matches. The civilian marksmanship program manages the civilian clubs enrolled with the Director of Civilian Marksmanship, which the Army supports.

Mr. CONYERS. How many of them are there?

Colonel ROLLINGER. We have approximately 2,400 clubs, sir.

Mr. CONYERS. How many people are in the—

Colonel ROLLINGER. The total membership as of June 30 was approximately 140,000.

Mr. CONYERS. This is one for young people as opposed to the adult phase of the program.

Colonel ROLLINGER. We do have senior clubs, sir, those that have junior divisions, because we encourage the senior clubs to support the juniors because this is where the coaches and the instructors come from. But primarily we support the junior program. We do not provide ammunition, for example, to the senior clubs.

Mr. CONYERS. Is it both your gentlemen's contention that these programs are still essential in terms of the programs that are ongoing with regard to the military, at this point?

Colonel ROLLINGER. Yes, sir, we do very much. I think if you will refer back to the Arthur D. Little study which the Secretary of the Army asked for because he believed things were the same in 1965 as they were in 1903 when the Board was formed. The Little study not only reported that the same situations existed, but if we were to call men to arms we should have a better training system to provide the mass of the people. These conditions are the same today as they were in 1966.

Mr. CONYERS. What way is that?

Colonel ROLLINGER. Because, sir, we found in World War II when we brought quite a few people together from the United States to go into combat, we had quite a number of young people that had come through the civilian marksmanship program and had been trained. Not only that but we found we had many instructors, the older people who were not going to be in combat, but those who could come forth and manage rifle ranges and teach rifle instruction at our various installations throughout the United States.

I do not have the statistics, but these are points that the Little report brought out. And the question was at that time, since it was a time of nuclear power, why should we have to worry about the individual learning to shoot a rifle. It has been proven in every war that until the soldier is on a hill with a rifle in his hands, and controls the hill, we have not successfully won the battle. So we believe today it is the same as it was.

Mr. CONYERS. Well, now that is the most single incredible statement I have heard in the course of these hearings. It is perfectly consistent with your point of view that nothing has changed since 1903.

You mean if there were not a civilian marksmanship program, the strength of the armed services would be weakened or imperiled or diminished in some way?

Colonel ROLLINGER. I am saying they are enhanced by having a civilian marksmanship program. It gives us a better capability.

Mr. CONYERS. I will yield to any member that may seek recognition. The gentleman from Illinois.

Mr. McCLORY. Thank you, Mr. Chairman.

I would gather from your testimony that it is really implicit in what you are telling us that a person who possesses and uses a firearm should be trained and should be responsible and should receive instruction and should regard this weapon as something which is useful, under some circumstances deadly and should be possessed and used and stored and handled with the utmost of care.

Colonel ROLLINGER. Yes, sir.

Mr. McCLORY. So a program whether private or public which has inherent in it that philosophy is a good policy, a good program.

Colonel ROLLINGER. Yes, sir.

Mr. McCLORY. Thank you.

Mr. CONYERS. Yes, the gentleman from California, Mr. Danielson.

Mr. DANIELSON. Thank you, Mr. Chairman.

I am concerned about security of the guns that you loan out. It has been demonstrated that frequently in the last few years there have been burglaries of Government arsenals in which weapons have been stolen and later used in criminal activity. These guns, as I understand it, are not stored in the Government arsenals. Where are they stored, the loaned guns?

Colonel ROLLINGER. The loan of our guns to a club, sir, is the responsibility of the club leaders. Now, normally, a club would have up to 10 rifles, primarily the .22-caliber heavy-barrel target type. And the club leader, by regulation, is required to safeguard those weapons in accordance with local regulations.

Mr. DANIELSON. In other words, when we do make these loans, we then wash our hands of any further responsibility and leave it up to the club to provide appropriate security?

Colonel ROLLINGER. Well we don't exactly do that, sir. We do require the clubs to report the system that they use to secure their weapons and if we have any question when a club wishes to enroll in our program, law enforcement checks are made. In addition to that, we are provided the name of a local police official to whom, if we have any question as to the club's operation, we can then go to check for us.

Mr. DANIELSON. I realize you do see that local regulations are met. Have there been any instances of the theft or unexplained absence of any of the loaned guns?

Colonel ROLLINGER. Yes, sir. We have had reports of guns that were either lost or stolen. We also had reports of recoveries of approximately 50 percent.

Mr. DANIELSON. So your recovery would be 50 percent, necessarily there is a 50 percent loss?

Colonel ROLLINGER. Yes, sir.

Mr. DANIELSON. What does that translate to in absolute numbers? How many are absent without leave?

Mr. BROWNMAN. Thirty-three in 1975, fiscal year 1975.

Mr. DANIELSON. That is 1 year, what is the gross?

Colonel ROLLINGER. 17,000 rifles we have loaned.

Mr. DANIELSON. Oh, that are outstanding without —

Mr. BROWNMAN. 407 rifles have gone astray since fiscal year 1971, to date.

Mr. DANIELSON. How are you aware of that? I will give you an option here. Is it because they report their absence to you or do you go out make a physical audit and determine they are missing?

Mr. BROWNMAN. At the present time, it is based upon their reporting, however, as a part of the security upgrade of this program, and computerizing the location and serial numbers of the weapons, we will have a physical inspection from time to time, probably without announcement, in terms of—

Mr. DANIELSON. Has any such inspection and count, I am going to call it an audit for convenience, has it ever been made up to this time?

Mr. BROWNMAN. Not for these clubs.

Colonel ROLLINGER. Just on a periodic basis as representatives to the field and visit clubs.

Mr. DANIELSON. That would be on an individual club basis I assume?

Colonel ROLLINGER. Yes, sir. We only have in our organization a staff of 13 people.

Mr. DANIELSON. I am not blaming you, I am just trying to find out if you have got a weak link in this chain and so far I don't even hardly find a chain.

Colonel ROLLINGER. May I say this, sir. In the meeting of the national board it was recommended that we establish a club visitation system, within the Army, where we go not only to count our rifles, but to see if our stewardship was being fulfilled to the clubs.

Mr. DANIELSON. I think that is a good idea. I am not picking on you here. I am a part of the U.S. Government too and I think I am at fault if I do not dig in here a little bit.

I think from what you tell me there never has been a total field audit.

Colonel ROLLINGER. No, sir.

Mr. DANIELSON. How many clubs are there, you say?

Colonel ROLLINGER. We have approximately 2,400 clubs.

Mr. DANIELSON. 2,400 clubs and you have about 10 guns in each club that's 24,000 guns. It could be a little less. It runs from 5 to 10. I think you said 17,000 guns.

Colonel ROLLINGER. Yes, sir.

Mr. DANIELSON. You have a sales program which puzzled me. You sell M-1 rifles, 300 were sold, I guess, last year. What is the rationale or purpose behind selling these weapons?

Colonel ROLLINGER. This goes back to the authority of title X of the United States Code.

Mr. DANIELSON. That's 1903 and Elihu Root, who was a great lawyer, but I didn't think he knew anything about guns.

Colonel ROLLINGER. The program, as we see it, envisions our youngsters growing up with the training of the .22 caliber rifle and as they continue on in their progression, they advance to the heavier caliber or the .30 caliber, for which, of course, there is a great difference between the 50-foot range and the 1,000-yard range that they fire. And many people in competition are reaching out to go to the national matches and onward into the Olympics or international shooting. So this is one of the reasons that firearms were made available to the competitive shooting community.

Mr. DANIELSON. Can these weapons, the M-1, for example, can they be purchased on the civilian market?

Colonel ROLLINGER. They are not for sale, per se, by a manufacturer. The only way they could be purchased is from one owner to another owner. They are not commercially sold, no, sir.

Mr. DANIELSON. I see. They get into the civilian market, then, only through sales program?

Colonel ROLLINGER. That is correct, sir.

Mr. DANIELSON. There has not been a general release into the civilian market?

Colonel ROLLINGER. No, sir.

Mr. DANIELSON. Within the national matches and the international matches, is there competition with the M-1?

Colonel ROLLINGER. Yes, sir.

Mr. DANIELSON. Could another weapon be used in that competition?

Colonel ROLLINGER. Yes, sir.

Mr. DANIELSON. Any .30 caliber?

Colonel ROLLINGER. In certain competitions we require the service rifle which is designated and continues to be the .30 caliber M-1 or M-14 service rifle.

Mr. DANIELSON. Can a 30-06 be used?

Colonel ROLLINGER. Yes, sir.

Mr. DANIELSON. And that can be bought on the open market?

Colonel ROLLINGER. Not any one of our service rifles. There is no service rifle available. They do have matches for any type .30 caliber rifle in which the commercial model can be used.

Mr. DANIELSON. Can you give me a ball park figure as to how many

M-1's have been sold into the civilian market through this program?

Colonel ROLLINGER. We have sold 300 per year since 1968.

Mr. DANIELSON. Is that a limit of 300?

Colonel ROLLINGER. It has been, yes, sir. It is controlled by the Secretary of the Army. And we make a request each year.

Mr. DANIELSON. My last question is, on the sale of the 300 rifles per year, the M-1 program, after the application to purchase is made, you make your first check with the National Rifle Association to verify that the member is in good standing as required by title X.

Colonel ROLLINGER. Yes, sir.

Mr. DANIELSON. From that I infer, although I have not known it before, that the National Rifle Association is some kind of a Government organization?

Colonel ROLLINGER. No, sir. It was intended in 1903, that they wanted these rifles to be made available to the shooting community and this was one means of identifying a competitive marksman. And we therefore—

Mr. DANIELSON. Well suppose somebody is a good competitive marksman but he is just ornery and he will not join the National Rifle Association?

Colonel ROLLINGER. Well, we refer back to title X, which says to make available firearms to members of the National Rifle Association.

Mr. DANIELSON. It offends me as a lawyer. I have nothing against the National Rifle Association, but why not make it available to the Women's League of Voters, or something like that, you know, or the Elks? It is a private organization. I don't know what role it plays in Government policy. That bothers me. It is the unconstitutional, invalid classification. And after checking with the National Rifle Association, then you forward the application to the Treasury Department for Law Enforcement Agency check?

Colonel ROLLINGER. Yes, sir.

Mr. DANIELSON. In other words, the first hurdle is NRA membership and the second hurdle is criminal records and the like.

Colonel ROLLINGER. Yes, sir.

Mr. DANIELSON. Apropos of that, I also noticed a reference in your statement to a national agency check. That is for enrollment in the club?

Colonel ROLLINGER. Yes, sir.

Mr. DANIELSON. What does that encompass? What is included in a national agency check?

Mr. BROWNMEN. I don't think we are particularly competent—

Mr. DANIELSON. Which ever of you gentleman can answer—

Mr. BROWNMEN (continuing). I don't think we are particularly competent to answer what goes behind the scenes of a national agency check, but I would like to submit if I can a blank that one fills out which might be of assistance and achieves the same result.

Mr. DANIELSON. If the Chairman would not object, I would like to move that that be included in the record at this point.

Mr. CONYERS. Without objection, it will be ordered.

[The information referred to follows:]

NATIONAL AGENCY CHECK REQUEST		REQUEST DATA	
1. LAST NAME - FIRST NAME - MIDDLE NAME		2. SSN	
3. ALIAS (S) AND ALL FORMER NAME(S)		4. SOCIAL SECURITY NUMBER	
5. MONTH, DAY, YEAR OF BIRTH	6. PLACE OF BIRTH	7. SERVICE NUMBER	
RETURN RESULTS TO: (Include ZIP Code)		8. SECURITY PROGRAM	
		<input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN <input type="checkbox"/> INDUSTRIAL	
		<input type="checkbox"/> LOCAL FILES WITH CASES WITH FAVORABLE RESULTS	
		9. INITIATOR OF REQUEST	
10. RELATIVES		11. CURRENT ADDRESS	
12. DATE AND PLACE OF BIRTH		13. CITIZENSHIP	
14. SPOUSE (Full Maiden Name)			
15. RESIDENCES (List all from 15th birthday on, during past 15 years, which have a phone. If under 18, list present and most recent address)			
16. FROM	17. TO	18. NUMBER AND STREET	19. CITY
		20. STATE	
21. EMPLOYMENT (List all from 15th birthday on, during past 15 years, which have a phone. If under 18, list present and most recent employment)			
22. FROM	23. TO	24. EMPLOYER	25. PLACE
26. LAST CIVILIAN SCHOOL			
27. FROM	28. TO	29. NAME	30. PLACE
YES	NO	31. REQUEST DATA	
32. Is the subject an alien or naturalized citizen?		33. REQUESTER DESIGNATOR	34. REASON
	a. Has the subject any foreign names from employment or military service?	35. AIR FORCE	36. BASIC TRAINING
	b. Has the subject traveled abroad other than for the U.S. Government?	37. NAVY	38. PRE COMMISSION
	c. Has the subject had employment requiring a security clearance or investigation?	39. AIR FORCE	40. NUCLEAR
	d. Is the subject now or has he ever been in the Federal Civil Service or Armed Forces?	41. DIA	42. BI
	e. Has the subject qualified DD Form 308, etc. 481, or similar security form?	43. DISA	44. SECRET CLEARANCE
	f. Has the subject ever been subjected to drugs?	45. DISCO	
35. REMARKS (If additional space is needed, continue on plain paper.)			

DD FORM 1584

REPLACES DA FORM 3027, 1 AUG 65, WHICH IS OBSOLETE.

GPO: 1964-534-705

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Mr. DANIELSON. Apropos of the same thing, I am going to assume, and I have no evidence to support my assumption, that a national agency check would include FBI records, Secret Service records, I guess Post Office inspectors, and whoever else is included, and then, five lines down on page 4, you referred to some checks in addition to the National Agency Check Center at Fort Holabird. What in the world is that? What kind of a repository is the National Agency Check Center at Fort Holabird, if you know?

Mr. BROWNMAN. I would like to submit the answer to that for the record, sir.

Mr. DANIELSON. You mean, submit it later?

Mr. BROWNMAN. Yes, sir.

Mr. DANIELSON. I would appreciate it if you would. I have never heard of it before. Perhaps I am exposing dismal ignorance, but I have never heard of it.

Mr. BROWNMAN. I have inaccurate information about what is at Fort Holabird.

Mr. DANIELSON. It could be yours is as inaccurate as mine.

Mr. BROWNMAN. I would like to submit it for the record.

Mr. DANIELSON. Could that be included, Mr. Chairman?

Mr. CONYERS. Of course.

Mr. DANIELSON. Thank you very much.

I have no further questions.

[The information referred to follows:]

The National Agency Check Center of the Defense Investigative Service [DIS] conducts all National Agency Checks [NAC] for the Department of Defense [DOD]. A NAC consists of searching the indices and files of appropriate national agencies for information bearing on the loyalty, trustworthiness, and suitability of individuals under the investigative jurisdiction of DOD. A NAC constitutes the minimum investigative requirement necessary for final clearance up to Secret and interim up to Top Secret for certain categories of personnel. The NAC is also an integral part of other types of personnel security investigations conducted by DIS.

Mr. CONYERS. Mr. Hughes?

Mr. HUGHES. I have no questions.

Mr. CONYERS. Mr. Ashbrook?

Mr. ASHBROOK. Yes. First of all, I would like to say in reply to my friend and colleague from California who thought it was unusual to have a private group in any way included in the law, that is nothing unusual. The Government for years has encouraged this in the area of conservation. Recent poverty programs have worked through private agencies. It is not unusual in the statute to name some carrier, other than the Government, to carry out the purpose, whether it be for conservation or welfare; and I assume that in 1903 it was legitimate, and I assume it is now.

Mr. DANIELSON. Would the gentleman yield only very briefly?

Mr. ASHBROOK. Sure.

Mr. DANIELSON. My concern is that no matter how fine and upright the citizen, and no matter how excellent a shot he may be and how responsible, for example, he still would be compelled to join the NRA before he could buy a gun. And, while this comment is not, indeed, to downgrade the NRA, it seems like we are imposing a requirement that you have to be a Democrat before you can vote, for example. That is what offends me.

Mr. ASHBROOK. I agree with the gentleman's interesting point, and like any other law which can be revised, that, of course, can be addressed at this time or at some future time.

I would merely like to take a minute to add to the record that this statement might be no more than a footnote in the later hearings or volumes of hearings we have. But I am glad, for once, to get some positive statement on the record that, despite all of the current problems we have with firearms, and even though I am an advocate of

the ownership of firearms and the right to own firearms, there is no doubt in my mind there are problems associated with that. But it is good to have, at least for the record, some positive assertion that there is a national purpose, there is some national reason, there is some good that comes out of ownership, use, training in firearms. I particularly am pleased to hear this because I say, it seems like everything we hear in this day and age is that the firearm is a menace, a national disgrace, and a moral enemy of everything we have, and I would say maybe it is just the other way around, the misuse obviously is. But the firearm historically has been a part of our fundamental freedom and the security of this country.

I cannot help but wonder, I have often thought maybe somebody did some research into that, maybe you people at work in this program. In 1941, had the United States been a country where there were no private firearms, I wonder if the Japanese would have worried as much about invading us, even though we were weak and our Army was weak at the time.

I put this on the record because I think there is a national purpose for private and proper ownership and use of firearms. I wonder, Colonel, if you have any observations on that.

Colonel ROLLINGER. I do not have any statistics I can quote; but I do believe, as we feel so strongly that a person should learn to drive an automobile adequately, before he is put on the road, through training and I believe that before a person has a gun in his hands or children go out and shoot the street lights out, that if they learn to adequately protect the right to use those guns by learning to use them correctly, I think they will be better citizens and they will feel more confidence.

Now, we have some studies, for example, that went on in Korea with our young men that were on the front line, that those who did not have the confidence in the weapon that they held in their hands were less apt to fire that weapon in combat. This would go back to substantiate your thoughts.

Mr. ASHBROOK. Probably this is on the broader scale, our complete national problem. I do not think we have learned to use our energy resources properly. We probably have not used our affluence, our wealth, our timber, our ore deposits and so forth. I think maybe this is part of our national problem, not just in the firearms, but overall the intelligent use of all of the freedoms and resources in this country.

I want to thank the gentleman.

I just want to point out, as I did, that at least we ought to find some footnote in the record that indicates that there is some national purpose for proper use and ownership of firearms.

Thank you, Mr. Chairman.

Mr. CONYERS. Before we excuse you, there was a report by the Army released this month that indicated that stolen weapons were a very serious problem.

Are you aware of that report that went to a Subcommittee of the Armed Services Committee?

Mr. BROWNMAN. I recall reading that fact in the newspaper. I am not aware that the Army released the report. I believe somebody else did release the report.

But Mr. Chairman, regardless of the report, its release, the Army contends that the safeguarding and the control of weapons and an-

munition is indeed a serious matter, and I spoke about our upgrade program, and I just talked about one facet. I thought I might spend a moment or two and discuss some additional facets.

Approximately a year ago, when we felt that some elements of the National Guard were not storing and safeguarding weapons properly and not using intrusion detection alarm systems that were adequate, the Army requested the National Guard remove the bolts from these weapons and have them stored in local police authority installations where there was a 24-hour-a-day guard, or in local Army bases, camps and forts where there was a 24-hour-a-day guard.

We have upgraded the criteria for arms rooms, both with the National Guard, the Reserve and the Regular Army, and we have spent a considerable amount of money both in the United States and in our foreign installations to, in fact, improve the safeguarding of weapons and ammunition. This is an ongoing program.

Mr. CONYERS. Finally, is it not correct in one of the reports concerning the marksmanship program, that only 3 percent of those persons inducted in the Armed Services had the benefit of such programs?

Do you remember that?

Colonel ROLLINGER. I remember something mentioned in the Little report. I do not have the information available to specify just exactly what percentage it is.

Mr. CONYERS. Do you call that of those 3 percent, 85 percent who had the training were assigned to desk jobs in the military?

Colonel ROLLINGER. No, sir. I do not know that.

Mr. CONYERS. You have not heard that before?

Colonel ROLLINGER. No, sir.

Mr. CONYERS. And you do not know the percentage of persons who have been in the program that subsequently entered the Armed Services?

Colonel ROLLINGER. I do not know the statistics; and if there were some, I do not know how they were gained. We are trying now to computerize. We should hopefully have it in the next few months to keep track of our membership, as they progress, not only in services but in international competition, and things of that nature.

Mr. CONYERS. Have you studied the Arthur Little evaluation of the program?

Colonel ROLLINGER. I have read the Little report, sir. I do not know the statistics that you are quoting from heart. I do know that there were points brought out in there.

Mr. CONYERS. Gentlemen, I want to thank you.

We have to move on and so we will not delay you any longer.

Mr. Secretary, we appreciate your visit with us, and Colonel Rollinger, we appreciate your testimony as well.

Colonel ROLLINGER. Thank you for the opportunity.

Mr. BROWMAN. Thank you, Mr. Chairman.

Mr. CONYERS. We now have testimony coming forth from the executive director of the Institute for Legislative Action of the National Rifle Association, Mr. Harlon B. Carter, accompanied by Mr. Richard L. Corrigan, director of the Federal Affairs Division of the National Rifle Association and staff counsel, Mr. Michael Parker, staff council for the Institute for Legislative Affairs.

Mr. DANIELSON. Mr. Chairman, may I make an inquiry?

Mr. CONYERS. Of course.

Mr. DANIELSON. I do not want to do anything to prevent, interrupt, or whatever you want to call it, to inhibit the testimony we are about to receive. I note that the clock shows 12:40 p.m. Others similarly situated with me may have a desire for lunch, or they may have some other commitment. I am willing to forego for a full hour, if that would make it possible to receive this testimony. Otherwise I would like to know whether the Chair would plan to recess for lunch?

Mr. CONYERS. That is a good question.

I am scheduled to personally appear before the Budget committee this afternoon at 1 or 1:30. So, what I had planned to do, Mr. Danielson, was at least receive the major thrust of the statement, and then, at that point, we would probably enjoy a recess.

If that meets with no objection from my colleagues on the subcommittee, we welcome you gentlemen. We appreciate your assiduous preparation for this meeting with the subcommittee before it closes down and hopefully moves toward markup of some legislation.

Your statement will be recorded in the record, and that will allow you to emphasize those points which you feel this subcommittee should be apprised of.

[The prepared statement of Harlon B. Carter follows:]

STATEMENT OF HARLON B. CARTER

Mr. Chairman and members of the committee, my name is Harlon B. Carter. I am Executive Director of the National Rifle Association's Institute for Legislative Action. The Institute for Legislative Action was established late last April by the NRA Board of Directors and given full responsibility to conduct the Association's legislative program.

I'd like to thank all of you for graciously inviting us to testify today here on the three major bills which the subcommittee is considering, H.R. 9022, which is the Administration's bill; H.R. 9763, by Congressman McClory; and H.R. 9780, by Chairman Conyers.

Chairman Conyers' bill is perhaps the most simple and most direct in concept: it would abolish private ownership of handguns. The Administration bill, although it has been advertised as a "Saturday Night Special" bill, is deceptive. It would outlaw many other handguns which are neither cheap nor of low quality, and would grant the Secretary of the Treasury discretionary authority to ban all handguns anytime he pleases. In addition, the Administration bill is designed, and intended, to drive out of business three-quarters of the small dealers which retail firearms across the United States. The bureaucracy has complained of the size of its regulatory job and seeks that the number of dealers be pared to their level of performance—an astonishing approach to government relations with small businessmen.

Mr. McClory's bill is in many respects similar to the Administration bill, but would add to that a system of federal licensing of handgun owners, state registration of handguns, as well as a \$25.00 excise tax on any handgun sold.

The National Rifle Association is unalterably opposed to all three of these bills or to any other bill that would outlaw any handguns on the grounds that they cause crime.

However, it may come as a surprise that we do have one narrow area of agreement with Chairman Conyers. If I understand the Chairman's position, he sees no real difference between different kinds of handguns, that is, whether a handgun is called a "Saturday Night Special" or some other kind.

I agree; I don't think there is any such thing as a "Saturday Night Special." Some years ago we pointed out the difficulty of defining the so-called "Saturday Night Special." It is becoming increasingly clear now that there can be no definition. "Saturday Night Special" has become a very elastic epithet used by people antagonistic to the private ownership of firearms to describe any handgun they don't like, meaning all handguns, or at least every handgun they think they have a chance to abolish.

Every new bill on this subject has progressively broadened the purported definition of "Saturday Night Specials." In just a short time, the supposed connection between "Saturday Night Specials" and criminals has become a Trojan Horse to attack the ownership of all handguns owned by honest, law-abiding Americans—citizens who are not responsible for the crime problem and who have done no wrong. There have been a series of attempts to define "Saturday Night Specials" with criteria that make no sense to anyone, and, in fact, are wholly illogical. It makes no sense to me why possession of a finely made handgun costing \$200 owned by a decent, law-abiding man of means should be legal, but ownership of a \$40 handgun by an equally decent, law-abiding resident of the inner city who can't afford anything better to protect his family and his home, should be a felony.

It makes no sense that a handgun with a 4" barrel should be perfectly lawful, but a handgun with a 3" barrel should be contraband. It makes no sense that a handgun which is made of materials that melt at 1200° F. should be legal, but that one which melts at 1000° F. should be illegal.

These purely arbitrary distinctions make no sense to me, and I dare say they make no sense to the many millions of law-abiding citizens who own handguns which would be declared contraband by one or another of the various bills.

I'll take it a step further. The emotional arguments which are being made against "Saturday Night Specials" apply not only to all handguns; they can be directed just as easily against all firearms of any kind. If any article generally possessed by the public should be banned just because criminals also possess it, that misguided argument will very shortly be made against rifles and shotguns too.

My point is that this issue is much broader—and reaches more people—than is suggested by focusing on "Saturday Night Specials" or on handguns. It affects every American who owns a firearm.

I do not believe a man is a future criminal just because he owns, or desires to own, a firearm.

Let me put it in personal terms because to me it is a very personal issue. I own a handgun, several of them. To me that is a valuable right. I cherish the freedom to be able to own guns. I've never abused that freedom. I've never robbed or murdered anybody. So why should I have to give up my gun? How does my gun relate to the crime problem?

Law abiding people, and particularly gun owners, are tired of being blamed for crime. They are sick of being harassed with federal bureaucracy and having their freedom progressively and increasingly chipped away because of the inability or unwillingness of their government officials to deal with those responsible for crime, namely, criminals.

President Ford recently reminded the nation of some interesting facts about the crime problem. He said:

"A small percentage of the entire population accounts for a very large proportion of the vicious crimes committed. Most serious crimes are committed by repeaters. These relatively few persistent criminals who cause so much worry and fear are the core of the problem. . . .

"To illustrate the nature of this problem let me point out that in one city over 60 rapes, more than 200 burglaries and 14 murders were committed by only 10 persons in less than 12 months. Unfortunately, this example is not unique."

The President might have added something else of significance: these habitual law-breakers will ignore any firearms law.

In 1973, 20 percent of all the murders in the nation occurred in just four cities: Chicago, Detroit, New York City and Washington, D.C. It is highly illuminating that each of those four cities has extremely restrictive gun laws—among the most extreme gun control laws in the nation.

From the Washington Star, Monday, September 29, 1975; "Consider the following statistics:

"In an average month about 20 percent of all the suspects released on "personal recognizance" to await trial were rearrested for committing new crimes before their first cases ever got to court.

"Over a one-year period these rearrests of persons out on personal bond account for approximately 2,500 crimes committed in the District.

"Of the 2,500 crimes, approximately 700 are felonies—many of them violent—committed by defendants already awaiting trial on other felony charges."

These facts show that a small percentage of the population is causing most of the crime, and that the existence of firearms laws is not affecting the crime rates in the areas where those laws exist.

We've all heard a great deal of talk about how states with strict gun laws are being thwarted by people who are gun running from states where the gun laws are not as strict. The officials who are charged with enforcement of the current federal laws describe in extreme detail where these guns come from and the routes by which they get to their destinations. What I have not heard a great deal about—and it truly mystifies me—is why aren't these people, these gun runners, and the people who sell to them and the people who buy from them, why aren't they in jail? Why is the Justice Department—which is so eager to impose additional restrictions on the law-abiding—so unwilling to prosecute flagrant violations of existing firearms laws?

It is said that New York and Detroit have high crime rates because of guns from Ohio and South Carolina. How can that be true when Ohio and South Carolina, with all their guns still have lower crime rates—a lower murder rate—than New York or Michigan? Wouldn't one reasonably assume something besides guns is at the root of the matter?

It is already a violation of federal law, with very severe penalties up to five years in prison, for moving firearms between the states, except between licensed dealers. It just simply seems outrageous that new gun laws would be sought upon such a fallacious pretext.

Why haven't all the gun laws that we already have—federal, state and local—which make it impossible for a criminal to lawfully have a gun in the first place, prevented street crime in our cities? Here in the District of Columbia, for example, it is ordinarily illegal to take a handgun outside of your home or place of business. Anybody caught on the street with a handgun can be locked up. In New York City, to cite another example, the mere possession of a handgun without a license, even in one's home, is, in most cases, a crime.

Over the years, New York City has steadily decreased the number of handgun permits in the hands of law-abiding citizens. In April 1971, according to the New York City Police Department, there were 24,354 total handgun licenses in force—but only 564 of those handguns were licensed to persons who were not involved in law enforcement, such as guards or night watchmen. In a city of eight million, 564 handguns among private citizens amounts to prohibition.

Yet despite this virtual prohibition, in 1973 the handgun murder rate was twice as high as the national average and the robbery rate with handguns four times the national average.

Bear in mind that those violent crimes with firearms in New York City are committed by people who have usually violated Federal, State and New York City laws to get them.

The head of the Michigan State Police recently stated that less than 1/100th of one percent of the guns used in Michigan crime had been registered as required by Michigan law.

According to the New York City Police Department, "(1970), no homicides were committed by persons using legally licensed firearms." According to the statement, before this Subcommittee, of the Superintendent of New York State Police, the incidence of crime committed by the half-million legally licensed handgun owners in New York State "has been so negligible that supportive statistical data has not been kept."

In an attempt to justify taking firearms out of the hands of the law-abiding, the proponents of some of the bills before you have contended that since most murders are between relatives and persons acquainted with one another that most murderers are therefore law-abiding citizens. But that is nonsense. Criminals also have relatives and acquaintances. Junkies know their pushers; pimps know their prostitutes.

An analysis of 970 murders committed in Chicago during 1974 revealed that over 60 percent of the murderers had prior criminal records and nearly one-half of their victims had a prior criminal record. Clearly, murderers are not average hard-working, tax-paying, law-abiding citizens.

But for reasons nobody has been able to explain—at least to my satisfaction—many of the men and women in control of our institutions seem unable to grasp the fact that there are mindless, cold-blooded, and evil people who daily commit unspeakable violence against which our institutions fail to protect the vast majority of innocent citizens who are victimized. They simply refuse to recognize that certain criminals must be removed from society for the protection of society.

These same people in the media, in the Congress, in the courts seem to blame crime on everything in our society except the criminal and want to punish anyone and anything except the criminals.

There are very few victims of brutal criminality who wonder or even care about the socio-economic conditions that may or may not have motivated their attacker. The surviving victims of crime know only that they have been robbed, or beaten, or stabbed, or mugged, raped or shot. They have suffered. And under our system of justice—or at least as it was designed—the criminal who directly caused that suffering is supposed to pay the consequences. But somehow, it doesn't work that way any more.

There is a very clear breakdown in our criminal justice system, when the Attorney General of the United States tells us that we have only a four percent conviction rate for serious felonies and even fewer go to jail.

I do not believe that it's possible to take enough guns away from criminals to ensure the safety of a disarmed public. But if the President is right—if most crime is attributable to a relatively small number of criminals, we can take them—the criminals—out of circulation.

To paraphrase a local television station's endless editorial message: We need to "get the criminal off the streets."

I'd like to call the Subcommittee's attention to two independently conducted studies performed at the University of Chicago and at Virginia Polytechnic Institute, which were reported in the September 15th issue of Business Week. Both studies found a direct correlation that "states with better police protection, higher certainty of conviction and imprisonment, and longer prison sentences have lower crime rates than more permissive states."

As one who has spent a lifetime in law enforcement I can tell that the police officer cannot reasonably be expected to be an ever-present shield between the innocent citizen and the deadly force of the criminal. While this is true all the time, in recent weeks we have seen examples where police protection has been removed entirely as a result of a surge of police strikes across the nation.

In cities such as San Francisco we saw rioting as the criminal populace ran wild. But in Albuquerque, which also had a police strike this summer, there was actually a decrease in crime. Police on the scene stated this was because the criminals were afraid of the storekeepers who stayed at night in their place of business guarding their property. According to two Albuquerque police captains, the criminals also decided to go on strike rather than to face the certain, swift punishment promised by the armed store owners.

Just this week Tucson, Arizona, one of the major cities in the Southwest, is also having a police strike, but in that city—where the criminals know that the citizenry has both the means and the will to defend itself—the city is quiet. Contrast that with the rampant lawlessness in cities such as San Francisco, Baltimore, and New York City when police strikes have occurred.

It astonishes me that those who are most concerned about the civil liberties of our citizens should attack the liberties of law-abiding citizens who own guns.

It amazes me that those who created the Privacy Act and who denounce any plan for centralized files upon our citizens would now demand a centralized file upon citizens who happen to be gun owners. We oppose all dossiers on law-abiding citizens:

It appalls me that those who demand an end to so-called victimless crimes would attempt to create a new victimless crime by prosecuting a person who simply owns a handgun and had committed no other offense.

Finally, it astounds me that we would alienate a sizeable percentage of our citizens, who are firmly convinced that they have a basic, fundamental right to possess a firearm for defense of themselves and their families. It is sad to say, but I believe that it is undeniably true, that if this body were to declare all firearms contraband, it would be inviting civil disobedience.

In all of the testimony that has been given to this Committee over many months, little or nothing has been said about the cost in dollars of the various programs now under consideration. If this Congress decides to confiscate the firearms now held by law-abiding citizens, this Congress must be willing to purchase that condemned property. The cost would be many billions of dollars. If Congress decides to require "only" registration, the cost is still conservatively estimated at four billion dollars, for to require registration only of handguns

would require a computer system second only to the Social Security System—and we're all aware of the problems they are having. Similar foulups in gun control might well send good people to jail.

By any standard, the cost of the various programs before this Committee includes the loss of personal freedom, the alienation of law-abiding citizens and a tremendous burden upon the taxpayers. What would the nation get in exchange?

We would get a law which a large number of people have said would in their opinion reduce the crime rate. They said that in their opinion it would reduce the incidence of accidents, of murders, of robberies, of many of the other sins of this world. But I stress that those were only opinions.

The people who came before this Committee, indeed some of the members of this Committee, have responded as if gun control laws had never been tried in this nation, as if it were a new idea to solve an old problem. But the fact of the matter is that gun control laws are by no means new. They have been in effect in various parts of this nation for close to a century. And, where is the evidence that any of them have worked?

We have registration in numerous cities, including Washington, D.C. Has it reduced crime? The crime statistics since the law was enacted show that it has not—and the areas from which, it is said, Washington's criminal guns came have less crime than Washington.

In the case of either registration or prohibition there are no prior successes. If prohibition of all handguns has failed in New York City—as it has failed—why would any reasonable person assume that a prohibition of some handguns would be successful? Similarly, if registration bills have failed in city after city to reduce crime, and they have failed, why should anyone assume that yet another registration bill would be successful?

Why should the people of this Country be saddled with a discredited theoretical solution to a tremendous and complex socio-economic problem? The law-abiding gun owners of the United States are tired of having their freedoms experimented with by social planners.

In the face of such a mountain of evidence that gun laws have failed to reduce crime, how can anyone reasonably assume that yet another gun law will reduce crime?

We question the assumptions upon which these three proposals, and all similar measures, are based. We have yet to see any evidence that the ideas which they incorporate have worked. We have seen ample evidence that they do not.

Mr. Chairman, I thank you for your courtesy.

TESTIMONY OF HARLON B. CARTER, EXECUTIVE DIRECTOR, INSTITUTE FOR LEGISLATIVE ACTION, NATIONAL RIFLE ASSOCIATION, ACCOMPANIED BY RICHARD L. CORRIGAN, DIRECTOR, FEDERAL AFFAIRS DIVISION, INSTITUTE FOR LEGISLATIVE ACTION, NATIONAL RIFLE ASSOCIATION, AND MICHAEL PARKER, GENERAL COUNSEL, INSTITUTE FOR LEGISLATIVE ACTION, NATIONAL RIFLE ASSOCIATION

Mr. CARTER. Thank you, Mr. Chairman.

My name is Harlon Carter. I am the executive director of the National Rifle Association's Institute for Legislative Action. The institute was established this past April for the purpose of looking out after the legislative affairs of the National Rifle Association, which seem to have grown somewhat.

Now if I may, Mr. Chairman, having heard some of the testimony a while ago, I would like to say, and this is in line with the suggestion I received, I think, from you earlier, I would like to say that the National Rifle Association of America was founded in 1871. It is an independent, nonprofit organization supported by its membership fees.

Its purposes are to educate public spirited citizens in the safe and efficient use of small arms for pleasure and for protection, to foster firearms accuracy and safety in law enforcement agencies and in the Armed Services and among citizens subject to military duty—this is in line with the discussion which you just heard—and to foster conservation and the wise use of our renewable wildlife resources, to further the public welfare, law and order, and the U.S. defense, to represent our membership also in the Congress and in the administrative agencies and in the State houses in reference to the issues which come up.

If I could add one sentence to that, the reason why the National Rifle Association gets into the relationships with firearms in the discussions which we just heard, is because the National Rifle Association is the only organization in America which looks out after competitions in America. It might be a good thing for us if there were another competitive organization looking out after these things; but it just so happens that the NRA is the only one.

Now I would like to comment, if I may, upon the three major bills which, I understand, your committee is considering—H.R. 9022 and the administration's bill, which is H.R. 9763. I am sorry, I apologize—9022 is the administration bill, and Mr. McClory's bill is 9763, and then your bill, Mr. Chairman, is H.R. 9780.

I have with me our general counsel, Mike Parker, and Richard Corrigan, who you know is in charge of our legislative affairs.

I think that Chairman Conyers' bill is perhaps the most simple and the most direct in concept. It would abolish private ownership of handguns. The administration bill, although it has been advertised as a "Saturday night special" bill, is deceptive. It would outlaw many other handguns which are neither cheap nor of low quality, and it would grant the Secretary of the Treasury discretionary authority to ban all handguns anytime he pleases, really.

In addition, the administration bill is designed and is intended to drive out of business three-fourths of the small dealers which retail firearms across the United States.

The bureaucracy has complained of the size of its regulatory job and seeks that the number of dealers be pared to their level of performance—I suggest, Mr. Chairman, that is an astonishing approach to a government's relationship with small businessmen.

Mr. McClory's bill is in many respects similar to the administration bill, but would add to that a system of Federal licensing of handgun owners, State registration of handguns, as well as a \$25 excise tax on any handgun sold.

The National Rifle Association is unalterably opposed to all three of these bills or to any other bill that would outlaw any handguns on the grounds that they cause crime.

However, it may come as a surprise, we do have one narrow area of agreement with Chairman Conyers' bill. If I understand the chairman's position, he sees no real difference between different kinds of handguns, that is, whether a handgun is called a Saturday night special or some other kind.

I agree. I do not think there is any such thing as a Saturday night special.

Some years ago we pointed out the difficulty of defining the so-called Saturday night special. It is becoming increasingly clear now that there is no definition. "Saturday night special" has become a very elastic epithet used by people antagonistic to the private ownership of firearms to describe any handgun they do not like, meaning all handguns, or at least every handgun they think they have a chance to abolish.

Every new bill on this subject has progressively broadened the purported definition of "Saturday night specials." In just a short time, the supposed connection between "Saturday night specials" and criminals has become a Trojan Horse to attack the ownership of all handguns owned by honest, law-abiding Americans—citizens who are not responsible for the crime problem and who have done no wrong. Just last week we had a meeting here in Washington, if I might interpolate, in which we had over 106 people, representative of more than 20 million people in this country. They were not members of the board of directors nor were they executives of the National Rifle Association. They were people who are deeply concerned with the fact that the burden of these laws are imposed upon people who have committed no wrong.

There have been a series of attempts to define the "Saturday night specials" with criteria that makes no sense to anyone, and, in fact, are wholly illogical. It makes no sense to me why possession of a finely made handgun costing \$200 owned by a decent, law-abiding man of means should be legal, but ownership of a \$40 handgun by an equally decent, law-abiding resident of the inner city who cannot afford anything better to protect his family and his home, should be a felony.

It makes no sense that a handgun with a 4-inch barrel should be perfectly lawful, but a handgun with a 3-inch barrel should be contraband. It makes no sense that a handgun which is made of materials that melt at 1,200 degrees Fahrenheit should be legal, but that one which melts at 1,000 degrees Fahrenheit should be illegal.

These purely arbitrary distinctions make no sense to me, and I dare say they make no sense to the many millions of law-abiding citizens who own handguns which would be declared contraband by one or another of the various bills before us.

I will take it a step further. The emotional arguments which are being made against "Saturday night specials" apply not only to all handguns; they can be directed just as easily against all firearms of any kind. If any article generally possessed by the public should be banned just because criminals also possess it, that misguided argument will very shortly be made against rifles and shotguns, too.

My point is that this issue is much broader, and reaches more people, than is suggested by focusing on "Saturday night specials" or on handguns. It affects every American who owns a firearm.

I do not believe a man is a future criminal, or that he is a suspect, just because he owns, or desires to own, a firearm.

Let me put it in personal terms because to me it is a very personal issue. I own a handgun, several of them. To me that is a valuable right. I cherish the freedom to be able to own guns. I have never abused that freedom. I have never robbed or murdered anybody and never

in any way abused that right to own a gun. So, why should I have to give up my gun? How does my gun relate to the crime problem? Why should any burdens, any requirements, be imposed upon me at all, and this question is being asked all over America today by tens of millions of decent law-abiding people.

Law-abiding people, and particularly gun owners, are tired of being blamed for crime. They are sick of being harassed with Federal bureaucracy and having their freedom progressively and incessantly chipped away because of the inability or unwillingness of their Government officials to deal with those responsible for crime, namely criminals.

President Ford recently reminded the Nation of some interesting facts about the crime problem. He said: "A small percentage of the entire population accounts for a very large proportion of the vicious crimes committed." I believe the chairman has also wisely in another context made the same observation. We think it is true:

Most serious crimes are committed by repeaters. These relatively few persistent criminals who cause so much worry and fear are the core of the problem.

To illustrate the nature of this problem let me point out that in one city over 60 rapes, more than 200 burglaries, and 14 murders were committed by only 10 persons in less than 12 months, unfortunately, this example is not unique.

The President might have added something else of significance—these habitual lawbreakers will ignore any firearms law, just the same as they ignore any other laws that they break.

In 1973, 20 percent of all the murders in the Nation occurred in just four cities: Chicago, Detroit, New York City, and Washington, D.C. It is highly illuminating that each of those four cities has extremely restrictive gun laws—among the most extreme gun control laws in the Nation.

The Washington Star, Monday, September 29, 1975, reported that:

Twenty percent of all the suspects released on personal recognizance to await trial were rearrested for committing new crimes before their first cases ever got to court. Over a 1-year period these rearrests of persons out on personal bond accounted for approximately 2,500 crimes committed in the District.

Mr. CONYERS. Excuse my interruption at this point, Mr. Carter, but as you know, we are under a requirement now to participate in the proceedings on the floor of the House. So, I will use this opportunity to combine the luncheon break and would invite you and your associates to join us back at 2:30.

Mr. CARTER. At 2:30. Yes, sir. Thank you, sir.

Mr. CONYERS. The committee stands in recess.

[Whereupon, at 12:50 p.m., the committee recessed, to reconvene at 2:30 p.m., the same day.]

AFTERNOON SESSION

Mr. DANIELSON [presiding]. The hour of 2:30 having arrived, we will proceed with the hearing.

Mr. Carter, I believe you have the chair, and you are accompanied by your two associates.

Would you proceed.

Mr. CARTER. Thank you, sir.

At the time we broke for lunch, I had referred to the fact that of the 2,500 crimes here in the District, approximately 700 are felonies, many of them violent, committed by defendants already awaiting trial on felony charges.

These facts show that a small percentage of the population is causing most of the crime, as the President had said previously in his message, and that the existence of firearms laws is not affecting the crime rates in the areas where those laws exist.

We have all heard a great deal of talk about how States with strict gun laws are being thwarted by people who are gunrunning from States where the gun laws are not as strict. The officials who are charged with enforcement of the current Federal laws describe in extreme detail where these guns come from and the routes by which they get to their destinations.

What I have not heard a great deal about—and it truly mystifies me—is why are not these people, these gunrunners and the people who sell to them and the people who buy from them, why are they not in jail? Why is the Justice Department—which is so eager to impose additional restrictions on the law-abiding citizens of this country—so unwilling to prosecute flagrant violations of existing firearms laws?

It is said that New York and Detroit have high crime rates because of guns from Ohio and South Carolina. How can that be true when Ohio and South Carolina, with all their guns, still have lower crime rates—a lower murder rate—than New York or Michigan? Would not one reasonably assume something besides guns is at the root of the matter?

It is already a violation of Federal law, with very severe penalties up to 5 years in prison, for moving firearms between the States, except between licensed dealers. It just simply seems outrageous that new gun laws would be sought upon such a fallacious pretext.

Why have not all the gun laws that we already have—Federal, State, and local—which make it impossible for a criminal to lawfully have a gun in the first place, prevented street crime in our cities? Here in the District of Columbia, for example, it is ordinarily illegal to take a shotgun out of your home or place of business. Anybody caught on the street with a handgun can be locked up. In New York City, to cite another example, the mere possession of a handgun without a license, even in one's home, in practically all cases, is a crime.

Over the years, New York City has steadily decreased the number of handgun permits in the hands of law-abiding citizens. In April 1971, according to the New York City Police Department, there were 24,354 total handgun licenses in force, but only 564 of those guns were licensed to persons who were not involved in law enforcement, such as guards or night watchmen. In a city of 8 million, 564 handguns among private citizens amount to prohibition.

Yet despite this virtual prohibition, in 1973—and that is the last report we have from the FBI, the standard report—the handgun murder rate was twice as high as the national average and the robbery rate with handguns four times the national average.

Bear in mind that those violent crimes with firearms in New York City are committed by people who have usually violated Federal, State, and New York City laws to get them.

The head of the Michigan State Police recently stated that less than one one-hundredth of 1 percent of the guns used in Michigan crime had been registered as required by Michigan law.

According to the New York City Police Department "(1970), no homicides were committed by persons using legally licensed firearms." According to the statement, before this subcommittee, by the Superintendent of New York State Police, the incidence of crime committed by the one-half million legally licensed handgun owners in New York State "has been so negligible that supportive statistical data has not been kept."

In an attempt to justify taking firearms out of the hands of the law-abiding, the proponents of some of these bills before you have contended that since most murders are between relatives and persons acquainted with one another that most murders are therefore law-abiding citizens. But that is nonsense. Criminals also have relatives and acquaintances. Junkies know their pushers; and the pimps know their prostitutes.

An analysis of 970 murders committed in Chicago during 1974 revealed that over 60 percent of the murderers had prior criminal records and nearly one-half of their victims had a prior criminal record. Clearly, murderers are not average hard-working, tax-paying, law-abiding citizens, as some might cause you to think.

But for reasons nobody has been able to explain—at least to my satisfaction—many of the men and women in control of our institutions seem unable to grasp the fact there are mindless, cold-blooded, and evil people who daily commit unspeakable violence against which our institutions fail to protect the vast majority of innocent citizens who are victimized. They simply refuse to recognize that certain criminals must be removed from society for the protection of society.

These same people in the media, in the Congress, in the courts seem to blame crime on everything in our society except the criminal and want to punish anyone and anything except the criminals.

There are very few victims of brutal criminality who wonder or even care about the socioeconomic conditions that may or may not have motivated their attacker. The surviving victims of crime know only that they have been robbed, or beaten, or stabbed, or mugged, raped, or shot. They have suffered. And under our system of justice—or at least as it was designed—the criminal who directly caused that suffering is supposed to pay the consequences. But somehow, it does not work out that way any more.

There is a very clear breakdown in our criminal justice system when the Attorney General of the United States tells us that we have only a 4-percent conviction rate for serious felonies and that even fewer go to jail.

I do not believe that it is possible to take enough guns away from criminals to insure the safety of a disarmed public. But if the President is right, if most crime is attributable to a relatively small number of criminals, we can take them—the criminals—out of circulation.

To paraphrase a local television station's endless editorial message: We need to "get the criminals off the streets."

I would like to call the subcommittee's attention to two independently conducted studies performed at the University of Chicago and at Virginia Polytechnic Institute, which were reported in the Septem-

ber 15 issue of Business Week. Both studies found a direct correlation that

States with better police protection, higher certainty of conviction and imprisonment, and longer prison sentences have lower crime rates than more permissive States.

As one who has spent a lifetime in law enforcement, I can tell you that the police officer cannot reasonably be expected to be an ever-present shield between the innocent citizen and the deadly force of the criminal. While this is true all the time, in recent weeks we have seen examples where police protection has been removed entirely as a result of a surge of police strikes across the Nation.

In cities such as San Francisco, we saw rioting as the criminal populace ran wild. But in Albuquerque, which also had a police strike this summer, there was actually a decrease in crime. Police on the scene stated this was because the criminals were afraid of the storekeepers who stayed at night in their place of business guarding their property. According to two Albuquerque police captains, the criminals also decided to go on strike rather than to face the certain, swift punishment promised by the armed store owners.

Just this week Tucson, Ariz., one of the major cities in the Southwest—and yesterday I talked to Sheriff Coy Cox about this—they are having a police strike. And in that city, where the criminals know that the citizenry has both the means and the will to defend itself, the city is quiet. And the sheriff told me that crime is reduced. Contrast that with the rampant lawlessness in cities such as San Francisco, Baltimore, and New York City when police strikes have occurred.

It astonishes me that those who are most concerned about the civil liberties of our citizens should attack the liberties of law-abiding citizens who own guns.

It amazes me that those who created the Privacy Act and who denounce any plan for centralized files upon our citizens would now demand a centralized file upon citizens who happen to be gun owners. We oppose all dossiers on law-abiding citizens.

It appalls me that those who demand an end to so-called victimless crimes would attempt to create a new victimless crime by prosecuting a person who simply owns a handgun and had committed no other offense.

Finally, it astounds me that we would alienate a sizable percentage of our citizens, who are firmly convinced that they have a basic, fundamental right to possess a firearm for defense of themselves and their families. It is sad to say, but I believe that it is undeniably true, that if this body were to declare all firearms contraband, it would be inviting civil disobedience.

In all of the testimony that has been given to this committee over many months, little or nothing has been said about the cost in dollars of the various programs now under consideration. If this Congress decides to confiscate the firearms now held by law-abiding citizens, this Congress must be willing to purchase that condemned property. The cost would be many billions of dollars.

If Congress decides to require "only" registration, the cost is still conservatively estimated at \$4 billion—and that is too conservative; I have some figures that are much higher—for to require registration only of handguns would require a computer system second only to the

Social Security system—and we are all aware of the problems they are having. Similar foulups in gun control might very well send good people to jail.

By any standard, the cost of the various programs before this committee includes the loss of personal freedom, the alienation of law-abiding citizens and a tremendous burden upon the taxpayers. What would the Nation get in exchange?

We would get a law which a large number of people have said would in their opinion reduce the crime rate. They said that in their opinion it would reduce the incidence of accidents, of murders, of robberies, of many of the other sins of this world. But I stress that those were only opinions.

The people who came before this committee, indeed some of the members of this committee, have responded as if gun control laws had never been tried in this Nation, as if it were a new idea to solve an old problem. But the fact of the matter is that gun control laws are by no means new. They have been in effect in various parts of this Nation for close to a century. And where is the evidence that any of them have worked?

We have registration in numerous cities, including Washington, D.C. Has it reduced crime? The crime statistics since the law was enacted show that it has not—and the areas from which, it is said, Washington's criminal guns have come have less crime than Washington.

In the case of either registration or prohibition there are no prior successes. If prohibition of all handguns has failed in New York City—as it has failed—why should any reasonable person assume that a prohibition of some handguns would be successful.

Similarly, if registration bills have failed in city after city to reduce crime, and they have failed, why should anyone assume that yet another registration bill would be successful?

Why should the people of this country be saddled with a discredited theoretical solution to a tremendous and complex socioeconomic problem? The law-abiding gun owners of the United States are tired of having their freedoms experimented with by social planners.

In the face of such a mountain of evidence that gun laws have failed to reduce crime, how can anyone reasonably assume that yet another gun law will reduce crime?

We question the assumptions upon which these three proposals and all similar measures are based. We have yet to see any evidence that the ideas which they incorporate have worked. We have seen ample evidence that they do not.

Mr. Chairman, I thank you for your courtesy.

Mr. DANIELSON. Thank you very much, Mr. Carter, for your statement.

We will now proceed under the 5-minute rule.

I yield now to the gentleman from Illinois, Mr. McClory, for interrogation.

Mr. McCLORY. Thank you, Mr. Chairman.

How many members does the National Rifle Association have, Mr. Carter?

Mr. CARTER. We have something over 1 million, about 1,080,000, as I recall.

Mr. McCLORY. And are you a registered lobbyist?

Mr. CARTER. Yes, sir; I am.

Mr. McCLORY. Do you have other registered lobbyists in the NRA?

Mr. CARTER. Yes, sir; we do.

Mr. McCLORY. And you lobby for and against legislation here in the Federal Congress, as well as in the State legislatures?

Mr. CARTER. Yes, sir; we do.

Mr. McCLORY. And approximately how much did the NRA spend on lobbying in the Federal and State legislatures last year?

Mr. CARTER. We have done no lobbying in the State legislatures as of the present. The amount spent last year, I do not know.

Does either of you know?

Mr. PARKER. Mr. McClory, those figures—we do not have them. They are on file with the Clerk of the House and the Secretary of the Senate. We could supply them for the record, if you care.

Mr. McCLORY. That would be the amount you paid to your lobbyists?

Mr. CARTER. Mr. McClory, the lobbying effort which I told you about a moment ago is a product of 1975.

Now, we did have, prior to that, two lobbyists, as I recall. But the answer which I gave you is predicated upon the present.

Mr. McCLORY. Do you carry on your lobbying from the dues that are paid by the members, or do you have special contributions from your members for that purpose?

Mr. CARTER. We have a special contribution fund.

Mr. McCLORY. And you state that you have a tax-exempt status?

When was the tax-exempt status—

Mr. CARTER. Our situation with regard to—

Mr. McCLORY. What I am wondering is, how do you have tax-exempt status if you are a lobby organization?

Mr. CARTER. I was searching my mind, because, frankly, a number of these issues are in litigation at the present time.

Mr. McCLORY. I see.

Mr. CARTER. And I am very candid with you when I say I do not know precisely where we stand.

Mr. McCLORY. Would you furnish this committee with the amount of money that you spent on lobbying this year and last year?

This is a subject of public interest. I do not want to imply anything by it, because I think the lobbying efforts of the NRA are grossly overexaggerated. I think there is an awful lot more to the opposition to gun control legislation than just the NRA, I might state, quite frankly.

Mr. CARTER. Thank you.

Mr. McCLORY. Now, there is not anything in the bill that I have been presented, is there, Mr. Carter, which says that anybody who has a gun is going to have it taken away from him?

There is no confiscation of firearms of any kind, is there? Even the "Saturday Night Special" is not to be confiscated.

Mr. CARTER. You are speaking of your bill?

Mr. McCLORY. Yes.

Mr. CARTER. I do not recall there is anything constructed in that nature in your bill, no, sir.

Mr. McCLORY. I want to emphasize that in my legislation I am directing my attention and the entire impact against the criminal mis-

use of a firearm, not against a law-abiding citizen. Indeed, I would like to have a law-abiding citizen, especially the law-abiding gun owner, to cooperate in support of this legislation.

For one reason, I am very interested in expanding the existing registration system. We do have—all firearms that are manufactured are registered with the manufacturer, are they not?

Mr. CARTER. They are registered with the manufacturer, yes.

Mr. McCLORY. And they keep a registration of the dealers to whom they sell the firearms.

Mr. CARTER. Yes, sir.

Mr. McCLORY. And then the dealers in turn, the licensed dealers, they also keep a register which they are required to keep indefinitely of all of the firearms that they sell to the first purchaser.

Mr. CARTER. That is correct.

Mr. McCLORY. Now, with respect to tracing a firearm which is used in connection with a crime, as you know, we have a tracing system which requires the tracing authority of the Alcohol, Tobacco, and Firearms Division to go first to the manufacturer with respect to a gun that has been identified as one used or suspected of being used in connection with a crime, and then trace it to the dealer, and then try to find out who was using that gun.

Now, what would be wrong with having multiple places where such information might be more readily available in trying to identify and apprehend the criminal, once a crime is committed and they have the gun?

Mr. CARTER. I think the thing that is wrong with it is this, that there are applications complete with fingerprints and photographs and fees, which presuppose approval of a police authority.

Mr. McCLORY. No, no. I am just talking about the registration of the gun and the name of the person with whom it is registered. I am not talking about any fingerprints or anything.

Mr. CARTER. I do not know how you would operate a registration—

Mr. McCLORY. Instead of the dealer just keeping that information himself, what if the dealer just gave the information to the city clerk or to the State, the Secretary of State or something like that. Then it would be readily available.

Mr. CARTER. May I say this? In the first place, it is a central filing; it is a computerized dossier on law-abiding citizens. No one expects the criminal to insert himself in the process. It is a tremendously expensive thing, and we feel like that money ought to be spent better.

Mr. McCLORY. That would be the main difference. Instead of being a pencil and paper operation, it would be a computerized operation.

Mr. CARTER. Well, I think that we have seen a great deal of things in government the last 2 or 3 years that alarm good citizens about Government record-keeping on decent and law-abiding people by the tens of millions. Government should not be concerned with the 99 and a fraction percent of the people who do not commit crimes.

Mr. McCLORY. Let me say that, in thinking of gun control legislation—and I think my proposal is a very moderate one; I am not thinking of this as being the catchall of all criminal activity or the solution to crime. I am thinking about it only as being a small part of trying to identify and get the criminal.

But when the Alcohol, Tobacco, and Firearms Division ascertains from a survey that they made that, with regard to the tracing system, 70 percent of the tracings lead to the apprehension of the criminal and 40 percent are effectively used in connection with the prosecution of the criminals, do you not think that is rather persuasive evidence that an improved tracing system would help us to get at the criminal.

Mr. CARTER. Now, Mr. McClory, I thought you were talking about registration. I did not want to leave that subject too soon, because there is another thing about registration. It simply does not have anything to do with crime.

Mr. McCLORY. But, what about answering my question now?

Mr. CARTER. Well, now tracing is another subject entirely and, frankly, I have not yet come to grips with the subject because I see some absurdities in connection with it. For instance, one of the cases cited as an example of good tracing is the Bremer attempt on the life of Governor Wallace. His gun was right there; he was caught the day, and his gun was seized there, and I cannot see where tracing, although that was credited as an achievement for tracing, I cannot see where it had anything to do with it.

Now, that was doubtlessly one of the figures which entered into the success figure which you just gave me, and these are self-serving figures from the bureaucracy, and having spent a good many years with the bureaucracy myself, I seriously question the validity of those figures.

Mr. McCLORY. Apparently, they did not know who Mr. Bremer was until they traced it, but, anyway, you did cite an example which really disturbs me, and that is the fact that the police were on strike in Albuquerque, but they had a reduction in crime because the citizens were armed.

Do you think it would be a good policy for us to either get the police off the streets or disarm them and arm all the citizens and try to have our law enforcement done by citizens or citizen vigilantes, instead of law enforcement?

Mr. CARTER. I do not recommend that at all. As a matter of fact, I think that governments, traditionally and historically, owe more to the people in terms of protection for the people than our people are getting.

Mr. McCLORY. You certainly do not have any objection to any law which would prohibit the sale of guns to children and to dope addicts and to alcoholics and to felons, do you?

Mr. CARTER. No, sir. As a matter of fact, the National Rifle Association supports a rather broad—

Mr. McCLORY. You do not have any objection to registration law which does require registration of machine guns and other kinds of automatic weapons like that, do you?

Mr. CARTER. I think the point there is that all of these things are covered already by law.

Mr. McCLORY. Right. Now, we also have a law against the importation of the so-called "Saturday night special" and this has reduced the number of these cheap, really nonporting type guns into this country. Do you still approve of the importation of these parts having them assembled here, or having that identical weapon

manufactured here, which we prohibit insofar as its importation is concerned?

Mr. CARTER. As I said a while ago, the "Saturday night special" issue is really nonexistent. Anyone can take a long-barrel gun and make a short-barrel gun out of it in 15 minutes.

Mr. McCLORY. Do you think we ought to repeal the law which prohibits the importation of the "Saturday night special"?

Mr. CARTER. I did not think that was the matter—I did not think that proposal was before us.

Mr. McCLORY. If you oppose the "Saturday night special" do you oppose the importation?

Mr. CARTER. Pardon me?

Mr. McCLORY. You oppose the—you oppose any restriction on the "Saturday night special." I just want to know whether you oppose the importation of the "Saturday night special" which is covered in existing law?

Mr. CORRIGAN. Mr. McClory, may I answer that?

Mr. McCLORY. Would you favor the repeal of it?

Mr. CORRIGAN. May I answer the question in the way that I think will best enlighten you in the broad sense of the question you asked?

Mr. McCLORY. The best advice I could give would be either you do favor the repeal or you do not favor the repeal.

Mr. CORRIGAN. May I answer it and, if my response does not answer your question, would you sharpen it?

Mr. McCLORY. Sure.

Mr. CORRIGAN. In 1968 Congress intended to prohibit the importation of certain types of firearms. Apparently it is stated in the law that certain classes of firearms would not be imported. I think you, yourself, in testimony or questioning of witnesses in the course of the hearings here, have asked, or other members of the panel have asked, whether Congress did not intend whether these firearms would be prohibited from importation, either in whole or in part, and I believe it was Congressman Mann who asked that question directly to representatives of the Bureau of Alcohol, Tobacco, and Firearms, whether they had made any attempt whatsoever to use their administrative authority to test, at least, whether it was the intent of Congress to prohibit the importation of these firearms, either in whole or in part.

Mr. McCLORY. Well, then you think we just need some clarification in order to prohibit the importation of the parts, do you not?

Mr. CORRIGAN. My response is that if Congress did, indeed, intend to preclude the closure of importation of certain kinds of firearms in 1968, apparently a loophole has been found by some to defy the intent of Congress.

Mr. McCLORY. And you would support closing up that loophole, would you not? I am having a terribly hard time getting an answer to this question from you.

Mr. CARTER. I would not recommend it because it incurs a terrible expense without any achievement whatsoever, and I will tell you why. I had some reports in the last few days from American manufacturers of firearms of the type which you described and which I cannot describe, but commonly called "Saturday night specials," and these gentlemen were showing how all of their parts were made here in the United States.

The gun is assembled here in the United States, and I think that American manufacturers will find a way to supply the trade no matter what kind of legislation you pass with respect to the procurement of parts.

I just do not think there is anything there that you can cope with.

Mr. McCLORY. So, you, I gather would support repeal of the existing law against importing "Saturday night specials," would you not? The answer is yes, is it not?

Mr. PARKER. Mr. McClory, without going into whether we would support a repeal or not, I think I would be willing to say this, that I do not think it would make a great deal of difference, one way or the other.

Mr. McCLORY. OK.

Mr. PARKER. The real issue that this committee is considering is as to all handguns. That is the chairman's position on it, and I think Mr. Carter indicated earlier that there is no real distinction between them.

Mr. McCLORY. Oh, we have a variety of measures before us. My measure does not prohibit the ownership of—

Mr. PARKER. I did not mean to slight yours.

Mr. CARTER. I do not have any preference under the law for one handgun or another, or one type of handgun in preference to another. I think that there is not anything you can deal with in terms of legislation which will make a distinction between one gun and another.

Mr. McCLORY. If I may just add this, Mr. Chairman, I think we should make a distinction between gun control and gun confiscation because I am not supporting gun confiscation in any way at all, and a great deal of the testimony indicates that the improved, the closing up of the loopholes, and the other measures intended to get at the criminal misuse of the handgun gets confused with confiscating guns, and I hope that this moderate approach will ultimately get the support of the law-abiding citizen who wants to own a gun. Thank you.

Mr. CARTER. I think, if I may, I would just like to emphasize that our position is that you should do something to the people who commit crimes and leave those of us alone who do not commit crimes.

Mr. DANIELSON. At this time, the Chair notes there is a quorum call requiring our attendance on the floor. I am informed that this quorum call is probably the predecessor to a vote on an important amendment, I would like to request the members of the subcommittee to return as promptly as possible after performing our duty. My apologies. We do not run those bells.

And we will now recess to return as soon as possible after casting our vote.

[A brief recess was taken.]

Mr. CONYERS (presiding). The subcommittee will come to order. The Chair recognizes the gentleman from South Carolina, Mr. Mann.

Mr. MANN. Mr. Carter, on page 8 of your statement you refer to the—

Mr. CARTER. I am sorry, Mr. Mann. I did not hear you.

Mr. MANN. Well, I haven't said much.

You referred to the mindless, cold-blooded people who commit unspeakable violence. Of course, I know that is a reference to the criminal. Do you agree that it is appropriate, as now attempted to be done

in the 1968 act and attempted to be improved in the administration bill at the moment on the waiting period for example, that it is appropriate for the Government to try to restrict the access to guns to the criminal through prescreening, waiting periods, and what not?

Mr. CARTER. Prescreening waiting periods, Mr. Mann, these are things that are effective only in terms of the amount of information that the Government has on tens of millions of law-abiding citizens and we feel this is simply fundamentally wrong. We feel that it is wrong for there to be centralized records here in Washington on tens of millions of people who have committed no crime. They have done no wrong, they should not be suspect and the Government should leave them alone.

Mr. MANN. Well, let us assume that we are talking about felons alone. And it is true that there is a central record kept, at least on index cards for the Federal Bureau of Investigation, assuming that local law enforcement agencies has reported the arrest and depositions on the Federal fingerprint form and the various reports that go into making up the Federal Bureau of Investigation's records on felons throughout the country.

Do you see anything wrong with that record being checked by dealers before making a sale?

Mr. CARTER. I am not an expert in these things, but I feel like we have a situation wherein, as far as I know, the FBI records are on criminal classes. But the purchaser of a firearm now already executes a form from the Department of the Treasury on which he makes a sworn statement that he is not a criminal.

And, by having made this statement, he has put himself in a position of being a law-abiding citizen or else having made a false statement.

Mr. MANN. Well, in the meantime, the horse is out of the barn door and the criminal has the gun.

Mr. CARTER. The experience of law-enforcement agencies in the report we have, which have to do with crime and registered guns, is that criminals don't expose themselves to this process anyway. And a minute number, an insignificant number of guns percentagewise, of guns found in crime go through this process at all.

Mr. MANN. Well, you do go along with the idea, don't you, of making it illegal for a felon to own or possess a gun, a handgun?

Mr. CARTER. Yes, sir. That is one of the NRA's policies.

Mr. MANN. But you apparently see no way to get at that unless it is found in the routine enforcement of the law with reference to the possession and ownership of guns, which as you and I know, is accidental, when someone is caught with the gun.

Mr. CARTER. Law enforcement is the product of doing something to people who violate the law and not the process of doing things to those of us who do not violate the law.

Mr. MANN. Mr. Gainer testified this morning, and as a matter of fact his written statement on page 9 says it has been determined that on multiple gun sales through federally licensed dealers, that approximately 58 percent of the multiple purchases by single buyers who go and buy more than one gun are in violation of the law, meaning, primarily, that they are being bought for an illegal purpose or for a person who is otherwise unqualified to own or purchase a gun.

Mr. PARKER. Mr. Mann, could I comment on that?

Mr. MANN. Certainly.

Mr. PARKER. I heard Mr. Gainer make that statement and frankly I am very dubious about it. If the ATF has been doing enough checking of dealers' books to make that kind of a determination and checking all 156,000 dealers, and have come up with a figure of that kind, it seems to me they have already done most of the work to catch the people who have made false statements, which are signed under penalties of perjury.

A criminal who goes into a gun shop and makes a false statement on a form 4473 doesn't even have to commit a crime any further, he has already committed one. And he can go to the pen for 5 years.

Now, if the ATF has gone around and has checked enough books to determine that 58 percent of the multiple purchasers involve criminals, what happened to those criminals? That is what I would like to ask. Are they in jail now?

Mr. MANN. Well, of course, since he is not here, there is no way for us to know to what extent that is a sampling figure.

Mr. PARKER. I think that is a question the subcommittee might want to ask him.

Mr. MANN. However, I will have to plead guilty on behalf of my community for having been a source of multiple gun sales of an illegal nature.

Greenville, S.C.—The ATF did a special study on it. We achieved national recognition, unwelcome, but nevertheless valid, for large gun sales to single individuals who turned out to be local derelicts or someone of that sort who was solicited, acquired and given the usual fifths or whatnot to make the purchase.

And they did a thorough study. Prosecutions resulted. But as indicated, in most cases they did not have the right person when they prosecuted the known violator of the act. So, as I say, I don't know to what extent that figure is valid. But it does demonstrate the necessity or the desirability of tightening up the system for the purchase of guns by citizens.

But I am afraid that you don't agree even with that statement.

Mr. CARTER. Mr. Mann, I do not think any apologies at all are in order for South Carolina, because there was already a violation of Federal law in the movement of those firearms from South Carolina to New York. The penalty, I believe is 5 years and \$2,000. And I do not see how you could tighten up or make it any stiffer than it presently is.

Those firearms moved in interstate commerce between people who were not licensees. And, consequently, I do not see how you could pass any further legislation and do anything about it.

Mr. CONYERS. Will my colleague suspend until we have participated in this recorded vote?

Mr. MANN. All right.

Mr. CONYERS. We will stand in recess until then.

[A brief recess was taken.]

Mr. CONYERS. The Chair recognizes the gentleman from South Carolina.

Mr. MANN. Mr. Carter, I realize that in this world that most of our problems are people problems and not thing problems. I also know that there are distinctions between things. So I would not assert to

you that the automobile in the hands of a drunken driver is the basic problem.

Nevertheless, the fact that that automobile is registered has helped substantially in working on that problem, finding solutions and solving violations of the law by that irresponsible person who might be the drunk hit and runner, for example.

So, without asserting that that is exactly parallel, I would be curious as to how you answer the assertion that it is. How do you differentiate?

Mr. CARTER. I am not sure I understand the question. How do I differentiate between the registration of automobiles and the registration of guns?

Mr. MANN. Yes, if you agree that the registration of automobiles does serve a worthwhile purpose in the prevention and solution of crime.

Mr. CARTER. The registration of automobiles is a part of the process for taxing automobiles. The proposition of registering firearms is for the purpose of obtaining a police permission for an individual to own a firearm or to possess it; now there is an entirely different proposition because here is a law-abiding citizen, he wants a firearm and he has to have a police type approval in order to possess it. Even a criminal has a presumption of innocence operating on his behalf. But here is a law-abiding citizen who has to face—there is no argument about his noncriminality. He is a law-abiding citizen and yet he has to have police permission to have a gun. This is the essence of registration of firearms. It is an entirely different thing from the registration of automobiles.

Mr. MANN. I do not agree with you on the narrow distinction. Let us also assume that many States have personal property taxes and it becomes pertinent as to whether or not the person owns an expensive weapon, which should go to the tax office in return.

Let us assume that there are many ways, which there are, of recording the ownership of motor vehicles without sticking that license tag on it to identify it to all of the world. And you could demonstrate to me your understanding of this problem, if you were to assert to me, which I invite you to do, that if automobiles were not taxed that we would still not have them labeled.

Mr. CARTER. We have many places in the United States already where the authorities for the issuance of licenses for firearms will not issue them because of the political difficulties that the issuing authority is in if they should issue it to the wrong man.

This simply means that an individual, a policeman, a police authority, is passing upon the question as to whether a man might ever commit a crime. And when he does that he is going into an area which is beyond the competency of man and the result is, as in New York, where we only have 564 licenses. I believe, issued to a nonpolice type in a city of 8 million people.

In Los Angeles County, the sheriff out there will not issue any licenses at all except to judges and people in other preferred or political positions. Consequently, we have had enough experience with the registration of firearms and licensing to know it is a burden.

It is a difficulty on the backs of the law-abiding people and practically none on criminals because criminals do not expose themselves to that procedure at all. My colleague here would like to have a word on that.

Mr. PARKER. Mr. Mann, just one observation only, I do not know of anyone who really cares how many cars you own or who suggests that the purpose of registering cars is to reduce the number of cars on the road. You can buy as many cars as you can afford to buy and that you can afford to put license plates on. Nobody really cares about that. And the issuance of drivers licenses is also virtually automatic. Nobody suggests that the purpose of a driver's license is to reduce the number of drivers. And that is precisely the aim of firearms registration.

The people who want it, if it were automatic, they would not want it.

They really want it so that they can have some selectivity as to who can purchase and who cannot. And, at one end of the spectrum there are many people who want to pass a system of firearms registration or owner licensing precisely for that purpose of making sure that virtually no one is able to do that.

I think that is the essential difference between the two. And for that reason, I do not think they are analogous.

Mr. MANN. I think that is a difference. But I do not agree with those who feel that the purpose of registration is to determine the ownership of a gun used in violation of the law. And I think that property taxes to the contrary, notwithstanding that automobiles would be registered for that specific purpose, as dangerous instrumentalities, if for no other purpose.

Mr. PARKER. I would not dispute at all that cars probably, even just to secure their return if they were stolen and we know we have a colossal auto theft problem in the country and for auto inspection, and for a variety of other reasons, people register cars, but the basic fact is that nobody suggests this is a system whereby you keep cars out of the hands of people.

And, again I keep coming back to that because it is a basic philosophical difference of why you undertake that kind of a system.

Mr. MANN. Well, as we do not prevent people from buying guns now—

Mr. PARKER. We do in some jurisdictions, sir, very much so. Not in South Carolina, fortunately, but in New York City they do.

Mr. MANN. We do not prevent people from buying automobiles.

Mr. PARKER. No.

Mr. MANN. At the same time, we identify both of them, each of them as a dangerous instrumentality legally. And it becomes accepted practice to have that automobile identified so that its misuse, its criminal use or its theft, regardless of the motivation or the intended use of the thief, we find it to be socially important and an almost vital function to be able to identify the owner of that automobile.

Mr. PARKER. I would agree with what you have said as far as you have gone. The difficulty is in the process to be used to accomplish that end.

You asked a question or two just a moment ago, about the waiting period and what objection there might be to the waiting period. And superficially one looks at it and says how could I object to such a thing as that. It seems eminently reasonable.

But let me tell you why I would object to it. And I think you find it is the language of the bills, especially the administration bill.

It is this: the purpose of this waiting period, presumably, is to send copies of the purchase application off to the local sheriff or the

local chief of police, and also to send copies to the FBI to determine that the buyer does not fall into one of the various categories that is proscribed under the current law, which would be carried over under these bills as well. And those include whether a person is a convicted felon, whether he is a fugitive, whether he has been indicted, even for a felony, although he may not yet have been convicted, whether he has ever been adjudicated as a mental incompetent, or committed to a mental institution, to determine if he is an alien who might be illegal in the country—a variety of people like this who are all proscribed from purchasing firearms.

Now, the check that the administration bill says it wants the waiting period for is roughly analogous to the check which ATF currently conducts with regard to licensees who want to be licensed as dealers, roughly the same check. Now, ATF has testified that the 30-day limit which presently is in the law and requires them to perform, is not long enough. They want to kick it up to 90 days, and that is only for 156,000 dealers. They want to take three out of four dealers out of business.

So what they are really talking about is, they want 90 days to process one-quarter of the dealers that they are now processing, or are required to process in 30 days, and that is roughly for the same check that the administration would now have them do for all handgun purchasers.

Now, if the figures are correct, there are somewhere between 1.5 to 2.5 million handguns sold each year, which means that instead of 156,000, or 35,000 or 40,000 dealers, they are going to be processing 1.5 to 2.5 million, and I think it is absurd to think that they are going to do that in 14 days. They are not.

It is not just a question of running an FBI check. Then they have to go to Immigration and Naturalization. They are going to have to go to State mental authorities; in some States, that information is privileged; it cannot be released. Supposing the information cannot be had, then what? They are going to have to make a lot of checks, and frankly, they cannot make them. So it is not going to be long—it is kind of like the old Bert Lahr commercial that used to be on television. He used to eat a potato chip and say "I'll bet you can't eat just one." And I have no doubt at all that if it is a good thing to be in favor of a 14-day waiting period, next year ATF is going to be back and say we cannot do it in 14 days. We will have to take 90.

Frankly, I can see where that leads, knowing how bureaucracies work. It is a little nibble first, and I'll bet you can't eat just one. So that is how I envision the objection to the 14-day waiting period. I just do not think it is realistic.

Mr. MANN. Thank you, Mr. Chairman.

Mr. CONYERS. Mr. Ashbrook

Mr. ASHBROOK. Thank you, Mr. Chairman.

I have a few questions regarding your statement on your projection of the cost of national registration. I assume you have been around for most of the testimony, and I asked the question of Mr. Davis the other day and he indicated that a registration system, as they envisioned it, would cost only \$35 million for the first year. I noted at the time I thought it was somewhat small, as often the Government engages in the downplaying of the costs, and overrating the revenues.

That seems to be a game everybody plays. I did not think it would be quite that far off—you jumped from \$35 million to in the billion dollar figures. Could you give me an indication of how you arrived at that figure, and what it is based on?

Mr. CARTER. Perhaps the best estimates that we have, Mr. Ashbrook, are based upon projections of experience which are available now. For example, a projection nationwide of the New York experience, cost-wise, would indicate \$100 per gun for 40 or 50 million guns, which would be a figure of \$4 to \$5 billion. And this for a police activity, supervising the conduct and the property of law-abiding citizens.

No one has suggested that these people are connected in crime, or associated with crime in any way at all.

Incidentally, a Federal law enforcement agency 10 times the size of the Federal Bureau of Investigation, which now is at about \$450 million a year—

Mr. ASHBROOK. Do you have supporting statements or documents to indicate that was the cost in New York? That is a figure I had not heard.

Mr. CARTER. The cost in New York is now about \$100 per gun; yes, sir.

Mr. ASHBROOK. I do not know exactly what you mean by \$100 per gun. Is that entire cost to the police force?

Mr. CARTER. Yes, sir.

Mr. ASHBROOK. From the so-called Sullivan Act?

Mr. PARKER. Mr. Ashbrook, that figure is the figure that was presented in 1968 to the National Commission on the Causes and Prevention of Violence. They commissioned the study, and in 1968 dollars, I think it came out to \$72.80, in 1968. And that did not cover—that covered only the overhead to the police department. It did not cover the startup costs. It would not cover the computer facilities that would be required to process and store all of that information, the keypunching and all that kind of thing.

It did not include the hiring of more personnel, because obviously, if you are going to go out and conduct investigations of would-be purchasers, you need qualified investigators to do it. You have either got to hire more, or take the ones you have got and use them on that. And it did not encompass many of the things that we see in these three bills, which are—especially Mr. McClory's bill. There are extensive reporting requirements for dealers, manufacturers at least quarterly, and for the smaller dealers, frankly. I think that is probably beyond their financial capacity to handle. I think that is no accident.

They have to report detailed information they have sold, and to whom they have sold it, and provide this all quarterly to the Secretary of the Treasury. Manufacturers, and importers and everybody else have to do all the same thing. Common carriers who transport these weapons all have to fill out all these forms, including the license plates of all their trucks, and all of this other nonsense.

And the cumulative total of all of this information—I am not a computer man, but in what they call bits of data has got to run into the quadrillions, and if anybody thinks they are going to do that for \$35 million. I would like to see their cost estimates.

Mr. ASHBROOK. Maybe as it was brought out by Mr. Danielson earlier, maybe it would all be worth it if we can catch somebody carrying a gun while he is mailing dentures.

Mr. PARKER. Yes, or spitting on the sidewalk, which if you took Mr. McClory's bill, literally, that is what it would do. It would make it a Federal crime punishable by 3 years in prison for possession of a gun while committing any crime, including, I suppose, in some jurisdictions spitting on the sidewalk.

Mr. ASHBROOK. This disparity is of great interest to all of us. While we probably will not have Mr. Davis back in front of us, I will send him a letter indicating the figures that you have cited and where they were gathered from. And possibly for the record we can find some additional statement on his part as to how he arrived at \$35 million. I did not pursue it because when somebody says it is going to cost \$35 million, back in the back of your mind you think, he is way low, but I did not think he was quite that low.

Turning to something that is very significant, at least to my way of thinking and I would like your opinion on it, page 22 of H.R. 9022, I would like your interpretation of subsection K at the bottom of the page starting with line 22. I think you were in the room when I asked Mr. Gainer about the limits he thought this would place on the actions, arbitrary or otherwise, of the Secretary of the Treasury. And he arrived at a rather different opinion than I happen to have. I am just wondering from your expertise what you feel the discretionary authority of the Secretary of the Treasury would be under this subsection.

Mr. PARKER. If Mr. Carter would defer to me on this, I would like to respond to that.

Mr. ASHBROOK. I would like to have, for the record, your opinion.

Mr. PARKER. Mr. Ashbrook, the basic system which is set up in the administration's bill and which is carried over into Mr. McClory's bill is that the Secretary of the Treasury would be given discretionary authority. First of all, 90 days passage of either of those two bills, if the Secretary of the Treasury did nothing, all handgun manufacturing and selling would stop, period. He is not required, the Secretary is not required to do anything.

Mr. ASHBROOK. It is a little bit like the chief of police you talk about, he just plain does not issue any permits.

Mr. PARKER. Yes, it would take a writ of mandamus and I am not sure you would prevail if he does nothing. Now, let us suppose he does decide that he is going to do something, so he is required at that point to test handgun models, new or used, it does not matter, no distinction is made. And he must first make an affirmative finding that that particular handgun model is particularly suitable for sporting purposes, whatever that means; and for valid defensive purposes, whatever that means.

Mr. ASHBROOK. Whatever that means, right.

Mr. PARKER. Including whatever the qualification means. Now, once having made that affirmative point or finding, he then consults, if he ever gets that far, he consults with this point system, this factoring system. And these are in the conjunctive, not the disjunctive. The fact that he finds it has a sporting purpose does not insure it will pass the point system. And the fact that it passes the point system does not insure that he is going to find it has a sporting or valid defensive purpose. In my mind, he has complete discretionary authority to declare any handgun model he pleases as a prohibited model, what these bills

refer to as a prohibited handgun, which thereafter cannot be sold or even transferred or even given away by anybody who owns them, now or ever again.

And literally you reach the point where somebody who owns one of these guns dies. They are either going to bury the gun with them or the Federal agent will be around there at the funeral to pick it up.

Mr. ASHBROOK. The question of Mr. Gainer, after listening to his testimony, if I were the Secretary of Treasury and I decided if the preamble of this bill, talking about the traffic in the guns and talking about criminal misuse of the guns as a significant factor in crime and so forth, and I just all of a sudden decide I have the authority, to blazes with it, there just are not going to be anymore guns sold, issued, transferred. I asked him if he thought I had sufficient latitude in the statute. He said no. Of course, I kind of think down deep I would have that authority.

What would your particular opinion be?

Mr. PARKER. Mr. Ashbrook, there would be no doubt in my mind, you would have the authority and the burden would be on anybody who desired to challenge it to show that you did not. And very candidly, from what I have read of court opinions on gun control issues, I doubt very seriously that a challenge would be sustained by the court. I think the plain simple language of the statute is as clear as a bell. And you do not get into questions of interpretation unless there is a doubt in the language and I think that language is pretty clear.

Mr. ASHBROOK. I think the thrust of the language is what probably concerns me the most. Whatever the interpretation might be. I think we would change the thrust of gun ownership in this country from one where the inference is in favor at this present time of the civilian, the citizen who peaceably owns and peaceably uses a firearm. And that is proper to the other way around where he literally has to prove, get over a battery of regulations, whereas clauses, etc., to show he even has a right to have that firearm. And that, of course, is the part that bothers me the most.

But going on to one last—

Mr. PARKER. If I might interrupt, just for 1 second, sir. There is one other thing that I think falls right in line with what you are saying. It would also do one other thing. It would create something that we do not—there might be some obscure example somewhere in the history of our country, but I am not aware of it offhand—it would create a class of quasi-contraband, something that is almost contraband, but not quite, legal to possess but illegal to sell or to give away.

And basically—people basically—you know, ignorance of the law is no excuse, that is for sure—but basically the average individual is not a lawyer. He does not understand the intricacies of Federal law. He really does not know whether the handgun he has got in a closet rates 59 points which is a felony, or 61 points which is legal on BATF's factoring scale. And you have a great deal of uncertainty. You would have a great deal of uncertainty in the public as to whether or not something was legal, kind of illegal or completely illegal.

And this status of quasi-contraband, something that when you die is going to be collected by the Federal Government creates just a horrendous enforcement situation and opportunities for just totally in-

equitous prosecution and just horrendous problems. I cannot really believe the people who designed this had any appreciation for the kind of law enforcement Frankenstein they were turning loose.

Mr. ASHBROOK. That is one of the reasons why regardless of the position on the bill, and I happen to be opposed to it, I will offer an amendment at the appropriate to insert the word "new" where it says "sale or transfer of any handgun." At least it would remove some of that never-never-land we have.

Mr. PARKER. I think we would still oppose it but I think it would improve it.

Mr. ASHBROOK. I would still oppose it, but I think it would at least get over some of the difficulties we mentioned there.

One last point; I understand you on another side have considerable amount of interest in marksmanship, the education program regarding firearms. I am interested in how this country rates as far as other countries are concerned. I did not get around to asking Mr. Brownman that question earlier. I am just wondering if you have any statistics as to how this country rates as compared with other countries in training, the numbers who are training, marksmanship, familiarity with a gun in the average populace as compared with other countries that might be considered our adversaries.

Mr. CARTER. Yes, sir. We do have a great deal of information in that regard. Our international teams are annually in competition with teams from other countries, including the Soviet Union and China. And frankly we are not doing very well. We did go through a period up until a few years ago when we were doing quite well. But this year we were soundly defeated all the way around. And these countries have a tremendous base which we do not have in this country. The last figures we have in the Soviet Union is that their youngsters around the 15-, 16-year-old group, they have 17 million young kids in their junior program. Now, the Scandanavian countries, small countries, small population, but several thousand. In this country we have a declining program and frankly I do not know how many we have, probably half as many as we once had. You heard the gentleman from the Department of the Army testify this morning as to the decline of less than half in the number of sponsored clubs in the DCM program.

Now, it is true a great many people in this nuclear age feel like this is an old relic of the Spanish-American War. But this is not what they think about it in the Soviet Union. That is not what they think about it in Red China, where they have the most aggressive civilian marksmanship training in the world. That is going on now in China. And we have no idea how many people are involved in it. But it is in the millions. North Korea has an immense program.

Mr. ASHBROOK. We probably have an interesting paradox then. In our country we have many guns and they are available to the individual, but they really do not know how to use them. And in their countries they know how to use them, but do not have guns. I do not know whatever that means, but it seems to be a rather—

Mr. McCLORY. Would the gentleman yield just to clarify that? I know that we both share a strong anti-Communist feeling and it is true, is it not, that there is no private ownership of firearms in the Soviet Union or in Communist China?

Mr. CARTER. On the contrary, sir. The Soviet Union as long as one's party affiliations are in good order, as long as he meets the political test, yes, sir, he does own privately owned firearms. They are very generous with them. He gets time off from his job in order to practice with it. And ammunition is furnished.

Mr. ASHBROOK. Thank you, Mr. Chairman. That is all at this point.

Mr. CONYERS. Before I recognize my colleague from California, why is it that this situation is occurring? Are we shooting worse or are they shooting better?

Mr. CARTER. Mr. Chairman, frankly, let me give them great credit. They are doing exceedingly well. We are doing better perhaps. We have a very limited program. It is a concentrated type of program with a few select individuals involved in it. But they have a great wide public base of support and I am not singling out any one European country to talk about. There is a wide spread of popularity in Europe and they have a great base to select from and they are doing very, very well.

Mr. CONYERS. Mr. Danielson?

Mr. CARTER. Government-sponsored programs, I should add, which perhaps they copied from us after 1903.

Mr. DANIELSON. Thank you, Mr. Chairman.

I should like to ask Mr. Parker a question. Based upon your previous comments, why, in your opinion, does anyone want to register handguns?

Mr. PARKER. I am not sure I could answer that properly. Anyone—

Mr. DANIELSON. Anyone means that. Why does anyone want to register handguns?

Mr. PARKER. You are asking me to psychoanalyze the other side. I do not know, Mr. Danielson really, except that the best estimate I can give of their motives—I would have to describe the whole spectrum—I think is the way to answer your question. There are some people who think—

Mr. DANIELSON. Let us cut out the extremes, you know, if we can because we have only got a few minutes this afternoon.

Mr. PARKER. I think basically the people who want registration think that that would in some fashion reduce crime. I do not agree with them, but they are entitled to their opinion. And there are others a little bit further and a little bit more extreme who want to use registration—and historically this is the way it has worked—to reduce the number of firearms owners and to turn it into something which only a few can participate in rather than the many. I think that is really what it boils down to.

Mr. DANIELSON. Are those the basic reasons in your mind?

Mr. PARKER. I would say those are the two primary reasons. Now, other people might have other motives, but I am not in the position to tell you what they might be.

Mr. DANIELSON. Those are the ones of greatest concern to you?

Mr. PARKER. Those are the ones that concern me, yes, sir.

Mr. DANIELSON. Then the argument as sometimes advanced that this is an effort to compile a huge dossier on law-abiding citizens who own firearms—is not a matter of concern to you. You do not put a lot of weight on that?

Mr. PARKER. Oh, no, I did not want to leave you with that impression.

Mr. DANIELSON. That is the impression you left me with.

Mr. PARKER. Candidly, that is an objection to it that I would share. I neglected to add that one as well. I did not think of it. But as you know, there are a great many people who fear it, not just with firearms, they fear the idea of Big Brother. I think it was the chairman's comment this morning that Big Brother may be overtaking all of us. And when it comes to guns I agree with him.

Mr. DANIELSON. Let us stick to firearms at this moment.

Mr. PARKER. Sir?

Mr. DANIELSON. Let us stick to firearms at this moment.

Mr. PARKER. Well, sir, insofar as it applies to firearms, I think underlying the opposition to registration, quite apart from the proponents, the opponents think that someday that information is going to be used to harm them in some way, if only to take away their firearms.

Mr. DANIELSON. In your response to one of the questions propounded by Mr. Mann, you said in substance and effect they want to decide who can purchase and who cannot purchase firearms.

Mr. PARKER. That is correct.

Mr. DANIELSON. Who are the "they" you are talking about in that context?

Mr. PARKER. The proponents of the kind of proposals that are in the three bills before you, sir.

Mr. DANIELSON. The kind of proponents.

Mr. PARKER. No; the proponents of the kind of proposals that are in the three bills before you.

Mr. DANIELSON. Incidentally, there are more than three bills before us. There are something like 170 bills before us on the entire subject of handgun control and all that is germane to handgun control is before us. So, you must not indulge in tunnel vision in answering my questions.

Mr. PARKER. I am trying to be responsive to the chairman's invitation, Mr. Danielson.

Mr. DANIELSON. Right now you are responding to me.

Mr. PARKER. I would be more than happy to do so.

Mr. DANIELSON. Among these people who seek registration for the purpose of determining who can and who cannot purchase, you have no quarrel, do you, with keeping guns out of the hands of convicted felons, convicted of violent crimes?

Mr. PARKER. No, sir, I have no objection to that. I think that is a laudable objective.

Mr. DANIELSON. How about those who are mentally disturbed in the sense they may become a danger to themselves or to others?

Mr. PARKER. That is a tougher question. I cannot give you a categorical answer to that. I think to the extent that we can do that, and remain consistent with some principles of civil liberties —

Mr. DANIELSON. Do you have any hesitancy to take away guns from a raving maniac who likes to go down the street shooting people's front windows?

Mr. PARKER. Now you have put it in terms I can answer. No, I have no objection with that.

Mr. DANIELSON. I can reduce it to fundamentals if you compel me to.

Mr. PARKER. We can reach a middle ground somewhere, where I have to start hedging.

Mr. DANIELSON. All right, you do not have to hedge on that, is that correct?

Mr. PARKER. No; I do not have to hedge on that one.

Mr. DANIELSON. How about persons who are known to be addicted to the use of narcotics?

Mr. PARKER. I have no objection to that, with one qualification I might say. There are some people in this country who are—I think the statute reads, unlawfully addicted, I am sorry, unlawful users—there are some users of narcotics for medication; with that qualification.

Mr. DANIELSON. All right, but if they are hopelessly addicted for whatever the reason so that they have lost their discretion, do you have any objection to keeping guns out of their hands?

Mr. PARKER. No, sir, I have no problem with that either, if it could be done.

Mr. DANIELSON. Well, the purpose is what we are speaking of, we would like to cure cancer. You do not object to curing cancer, do you?

Mr. PARKER. I go right down the line with you, sir, on purposes.

Mr. DANIELSON. Even if it cannot be done. How about a person who is notoriously and definitely established to be a chronic alcoholic and he is drunk, say, three-fourths of the time? Would you object to keeping a gun out of his hands?

Mr. PARKER. I would not. Some courts might quarrel with you, but I would not.

Mr. DANIELSON. All right, we are not dealing with the courts right now, I am just talking to Michael Parker, staff member, institute for legislative affairs, National Rifle Association.

Mr. PARKER. I am the general counsel to the institute, sir.

Mr. DANIELSON. That is the way you are identified on our worksheet here. Let me ask you this. How is society going to screen the would-be owners of guns, so as to eliminate these convicted, violent felons, the mentally deranged, the hopelessly addicted, and so forth, if there is not some way of having an application and a screening operation, how are you going to determine?

Mr. CARTER. Mr. Danielson, there are limitations on what governments can do and you have now——

Mr. DANIELSON. Just a moment, I want the record to reflect that Mr. Parker is not answering but Mr. Carter is. Now you may proceed.

Mr. CARTER. Thank you, sir. Would you like to have Mr. Parker answer?

Mr. DANIELSON. Yes; he is the person to whom I am addressing the questions.

Mr. CARTER. Go ahead.

Mr. PARKER. Mr. Danielson, you are really raising a philosophical rather than a factual——

Mr. DANIELSON. It is a tough question. That is why I would like to have your answer.

Mr. PARKER. What you are really talking about is prior restraint and we have always had, and one of the very fundamental things, precepts, that this country was founded on 200 years ago was the idea that each individual would be judged as an individual. He had the presumption of innocence. He was not punished in advance for things he might do.

Mr. DANIELSON. I will accept that. Now, will you answer my question?

Mr. PARKER. I am trying. I do not know of any way that you can make a predetermination that someone is going to misuse a firearm. And you have outlined several categories and we have agreed that clearly you should not have firearms and they are really in a very, very tiny minority. Now, I take it personally.

In Mr. Carter's statement, he made the statement he views this as a personal problem. Why should he have to go through all of this. Do it to the criminals, if you can——

Mr. DANIELSON. I did not talk about Mr. Carter. I asked about people who are convicted, violent felons, hopelessly addicted narcotics.

Mr. PARKER. I do not know of any practical way to do it, sir, without causing a great deal of difficulty for the people who are not causing the problem.

Mr. DANIELSON. So therefore you would rather allow those convicted violent felons, mentally deranged people, violently addicted to narcotics people to have guns, rather than to have the screening process for the honest people like yourselves. Is that correct?

Mr. CARTER. A price we pay for freedom——

Mr. DANIELSON. This is Mr. Carter responding to Mr. Parker's question. You are the general counsel, Mr. Parker, would you favor me with an answer please.

Mr. PARKER. Mr. Danielson, you cannot reduce it to that simplistic a question.

Mr. DANIELSON. I have reduced it to that and I want to know.

Mr. PARKER. I cannot give you that simplistic an answer.

Mr. DANIELSON. I want to know would the National Rifle Association prefer to have the convicted felons, the mentally deranged, the narcotics addicts have guns than to have a screening period before a gun license is issued.

Mr. PARKER. That is not a choice that we face, Mr. Danielson, it is not really a fair question.

Mr. DANIELSON. All right, it is an unfair question, but give me an honest answer to it, please. I will relieve you of the burden of answering, but I am going to make a statement.

I share with you the desire to protect the right of people to conduct their own lives. But very frankly, I do not know how you are going to screen out these undesirable people if you do not have an opportunity to look into their past history far enough to know whether they are mentally competent or physically competent or morally competent. We have laws against felons having guns. How are you going to enforce them if you do not first determine whether or not a person is a felon?

Mr. PARKER. I can make one suggestion. The people who turn to a life of crime, people who join the ranks of the criminally insane or

let us just say they are insane, there tend to be warning signs. Criminals start out small, they get big. We have some mechanisms already in place and I think this is where I quarrel with you, that screening is not the only way to reach them.

Mr. DANIELSON. How do you do it? Is there a litmus? Do they look different?

Mr. PARKER. If AFT would enforce the law that they now have, I think you would find a lot of people would be behind bars already. Let me give just one example. There was a study done some while ago using the FBI's computerized criminal history and they did a history study of nearly 13,000 felons. And they found that those 13,000 felons may have been responsible for 110,000 crimes. And if each of those 13,000 felons had received a 5-year prison term on their first conviction, 80,000 of those crimes would never have occurred. Now, it seems to me we are ignoring the warning signs. Now, if ATF would go around and start checking these 4473's that we all have to laboriously fill out and sign sworn affidavits and everything, and start going around and putting some of these people in jail who are making the false statements and making use of the tools that they now have, I do not think you would need a screening system.

After a while the word gets around, you do not go in a gun shop and sign a false statement because if you do you wind up in the penitentiary.

Mr. DANIELSON. Anyway, your position is no screening, is that the idea?

Mr. CARTER. Yes, sir.

Mr. PARKER. Well, there is a screening process. I do not think it is the same thing you are talking about, sir.

Mr. DANIELSON. All right, now I have a question for Mr. Carter who I know has been trying to answer one for quite a while.

I have you down on my worksheet as executive director of the Institute for Legislative Action of the National Rifle Association.

Mr. CARTER. That is correct.

Mr. DANIELSON. I had no intention of giving somebody the wrong title here.

As I understand it, in response to Mr. McClory's questions, you said you had no objection to our existing laws that prohibit people from machineguns.

Mr. CARTER. I do not recall I said that but I will go along with it.

Mr. DANIELSON. I understood that, but anyway you do go along with it. I assume that that extends to cannons, antitank cannons, for example, which fire armor piercing rounds.

Mr. CARTER. The National Rifle Association has a written policy spelled out by the board of directors, which includes a number of the subjects which you were discussing with Mr. Parker, and also does include the control of submachineguns and destructive devices, and they are defined in the law, yes sir.

Mr. DANIELSON. Destructive devices, that would include the antitank cannons, I am sure. But what else is there?

Mr. CARTER. Grenades, devices of war, I take it.

Mr. DANIELSON. I am sure you will recall that only 15 years ago if you or I wanted to buy an antitank cannon with armor piercing rounds, we could do it, about 15 years ago.

Mr. CARTER. Well, really there never has been anything of very serious consequence happened as a result of such ownership. But somehow or another we fell in league with people who were opposed to such private ownership and we have never come crossways with them yet. We are still going along with that.

Mr. DANIELSON. As a matter of fact though, it was possible, is it not?

Mr. CARTER. Oh yes, as a matter of fact I think it still is. As a matter of fact, we have a very distinguished group of people who shoot a lot of black powder weaponry, including civil war pieces, the North-South skirmishers, thousands of those people and they have a lot of fun out of that sport. And we do not have a bit of crime nor any difficulty with them. I just wanted to say a nice word about them. I do not see anything wrong with them.

Mr. DANIELSON. Now, for many years it has been unlawful to possess a sawed-off shotgun unless you are a law enforcement officer; is that not true?

Mr. CARTER. That is correct, yes sir.

Mr. DANIELSON. I do not think NRA has any quarrel with that, do you?

Mr. CARTER. We are not quarreling with that, no, sir.

Mr. DANIELSON. How about sawed-off rifles, about the same thing is it not?

Mr. CARTER. That is correct. But you are illustrating the reason why. You are having a lot of difficulty in the administration of the law, but go right ahead, sir.

Mr. DANIELSON. I am really getting at your policy. I think the National Rifle Association favors and supports the control of the possession and use of machineguns, cannons, sawed-off shotguns, and you said another thing there, destructive devices, which I guess encompasses a lot of other things that I have not named. And that is a correct statement.

Mr. CARTER. That is correct, yes sir.

Mr. DANIELSON. Let me ask you this: Does National Rifle Association still assert the position that article 2 of the Constitution prohibits Government to, by legislation, infringe the right of people to keep and bear arms?

Mr. CARTER. We feel like that. The last word by the Supreme Court has not been said with respect to the second amendment. We have some very strong feelings as to our own interpretation and we feel it is sound, but we do admit to our opponents that, as I say, the last word has not been said by the Court. That is about, so far as I know, and maybe my general counsel would like to talk about the second amendment, but usually I do not because I feel like that should be the province of the Supreme Court.

Mr. DANIELSON. Believe me, I am pleased to hear you say that because you do recognize that the Supreme Court has the burden of interpreting the Constitution.

Mr. CARTER. Oh, yes; I have always felt that way, right.

Mr. DANIELSON. But a question comes to my mind and I want your help on this. There is nothing in the second amendment that distinguishes between a .38 caliber revolver, a .45 automatic, a sawed-off shotgun, a machinegun, and a cannon. They are all arms. Could you explain whether you feel that there is anything in that amendment which makes

a distinction in the right of the people to keep and bear arms as between, let us say, a .38 revolver and an antitank cannon?

Mr. PARKER. Mr. Danielson?

Mr. DANIELSON. Yes, sir, you are on, Mr. Parker.

Mr. PARKER. Thank you.

To answer your question directly, the Supreme Court in the only decision concerning the second amendment made precisely that distinction, the one you just made.

Mr. DANIELSON. Well, what do you think? What is the position, if any, of the National Rifle Association?

Mr. PARKER. I will have to defer on that one because I do not make their position. But the Supreme Court has made that distinction. And that distinction was made in the only case.

Mr. DANIELSON. Well, personally, I have difficulty finding a distinction. It seems to me if you can regulate one, you can regulate the other. You are just a matter of degrees as you progress from a .38 to a .45 to a sawed-off shotgun, to a machine gun, and so on down the line. I do not know where you would stop.

That is all of my questions. I thank you very much.

Mr. CONYERS. Gentlemen, Mr. Carter specifically, I read you this statement:

In previous Congressional attempts to adopt strong gun control laws, all these forces have come together under the powerful leadership of the National Rifle Association to kill or weaken major legislative proposals.

True or false?

Mr. CARTER. I wish it were true. I do not think it is.

Mr. CONYERS. I read you further:

This year, as if divining some new shift of national opinion, the National Rifle Association has launched its most ambitious gun lobbying effort ever. A membership drive has boosted NRA ranks to 1,025,000 persons. A fund raising drive has netted about \$4 million and a new Institute for Legislative Action has been set up to coordinate the lobbying of all gun enthusiasts.

True or false?

Mr. CARTER. True. However, may I add a bit to that?

Mr. CONYERS. Please do.

Mr. CARTER. We feel like it is time, after all of these years, to give a voice to a great many very fine people who commit no crimes and to understand that the problems the Congress often deals with are the problems of just four or five of our biggest cities. And the people all over the country, some are mildly indignant and some are actually outraged at the prospect that out in the West and the Midwest and various places in the country that they are being asked to give up something to solve what someone thinks will solve a problem which is actually, if it is a problem, it is only a problem of four or five of the large cities of our country.

The people out west of the Potomac are rising in resentment. We had a meeting here for the last 3 days, 2 or 3 days, in which we had representatives of organizations that might number up to 20 million people. And they feel very strongly that they should have a voice here in Washington, which they have never had before.

Mr. CONYERS. What organizations were they?

Mr. CARTER. Many different organizations. I think most of them were hunting organizations and insensed over some of the things they

have seen lately on television which might be slightly apart from your purposes this afternoon. But the people feel strongly where we come from that they need a voice here. And, Mr. Chairman, you have been very kind in affording us one, and I appreciate it.

Mr. CONYERS. Well, is it not true that you are also organizing by Congressional districts?

Mr. CARTER. That is part of our plan and we actually have done some of that. We actually intend to do a great deal more of that, to organize by States and by districts; yes, sir.

Mr. CONYERS. What is it that you propose to do in these congressional districts?

Mr. CARTER. We plan an educational program. It is a program of keeping our people informed as to what is going on in Washington. And we feel that our people are such that all they have to do is know the facts, just the plain simple facts, and then they will respond as they see fit.

Mr. CONYERS. Now that you are officially a lobbying organization, is it not true that you have been engaged in influencing the course of firearms regulations across the years?

Mr. CARTER. I am sorry, sir, I did not get your last two or three words.

Mr. CONYERS. All right. Is it not true that the National Rifle Association has been influencing the course of firearms regulations across the years?

Mr. CARTER. Well, the National Rifle Association, in a sporadic fashion, a rather desultory type of response, a reaction sort of thing has tried, yes, sir, but not always successfully.

Mr. CONYERS. Well, you sat in at the very highest levels of council in the formulation of legislation, not only this, but in the 1968 Gun Control Act, the 1930—as I read the political history—you sat in on the formulation of the 1938 legislation on the subject, the 1934 legislation. Is that not correct?

Mr. CARTER. We have always been privileged to be present, yes, sir.

Mr. CONYERS. And you have impacted considerably on those deliberations.

Mr. CARTER. This is a point where you compliment us greatly. I am not sure we deserve it.

Mr. CONYERS. Well, let us talk about the new lobbying activity. Now that you have gone public on lobbying, is it not true that you have—that this organization started up with about \$500,000 appropriated from NRA as startup money, according to your own publications?

Mr. CARTER. It was a prorated sum, equal to \$500,000 per annum, yes, sir. But we have not been in business a year yet.

Mr. CONYERS. Right. OK. And is it—

Mr. CARTER. Mr. Chairman, may I correct what might turn out to be a misimpression, a mistake there? Actually, the response of our membership was so gracious and so great that we never did use any NRA membership funds. None have ever been used.

Mr. CONYERS. Have you raised more than \$4 million or less than \$4 million for lobbying purposes?

Mr. CARTER. I should think that about \$4 million, you are just about right.

Mr. CONYERS. Of course, under the Federal——

Mr. CARTER. Not all of that is for lobbying purposes. My counsel corrects me and he is quite right. That is for the entire expenses of the organization and we print books and we have an educational program and we have a considerable number of people who are not engaged in the lobbying effort at all and we pay for them.

So, the amount that is for lobbying, we have filed our reports and it is much smaller.

Mr. CONYERS. But lobbying organizations under the Federal statutes are required to report all moneys received.

Mr. CARTER. And we did.

Mr. CONYERS. All right, then that means that in the files of the appropriate office under the Federal Regulation of Lobbying Act of 1946, there would be a report of these \$4 million, more or less, that have already been taken in, correct?

Mr. CARTER. Mr. Chairman, the amount of money which had come in up to the time that we filed our report, and I do not remember how much it was, but it was considerably smaller, now when we file our next report, of course, it will reflect increasing amounts.

Mr. CONYERS. Right, at the appropriate time. I do not know what quarter it was received. But the point of the matter is, if I may just make sure we are talking about the same thing, the point of the matter is that a lobbying division of the National Rifle Association is under the legal obligation of reporting every penny they receive and every penny they disburse.

Mr. CARTER. My counsel has a comment there, it seems. You know how attorneys are.

Mr. CONYERS. Of course, that is what you brought your general counsel for, and we will defer to him for any observations that he would care to make.

Mr. PARKER. Chairman Conyers, thank you.

As you know, the Federal Regulation of Lobbying Act, as interpreted by the Supreme Court, under the *Harris* case, has thrown a real monkey wrench into what is required. I think it is a fair statement to say that the Institute for Legislative Action is obligated to report those funds which it has received for lobbying purposes, as the term lobbying is defined in that act.

Now, clearly that does not encompass every dollar that comes in to the Institute for Legislative Action for donations which are sent to us by members and nonmembers and which the donation is made with the understanding it will be used for a number of purposes. Lobbying is one. State grassroots organization is another. A legal defense fund is another. There are a great many things that we do that do not fall in that definition of "lobbying."

Mr. CONYERS. If any moneys are dispersed in support or against candidates in office, that would be reportable under almost any interpretations of this legislation. Is that not correct?

Mr. PARKER. We are proscribed, Mr. Conyers, as a 501(c)(4) organization, from engaging in electoral campaigns.

Mr. CONYERS. Which organization?

Mr. PARKER. The National Rifle Association of America, of which we are under the same corporate umbrella. We are proscribed from that kind of activity; 501(c)(4), however—and I hasten to add this—

does not proscribe us, under title 26 of the Internal Revenue Code, from being what they call an action organization, which is not proscribed from lobbying.

Mr. CONYERS. That is how you got to be a lobbying organization in the first place, is it not, because it was interpreted that you were, in fact, an action organization. So let us make it crystal clear, as they used to say around here, the Institute for Legislative Action is a lobbying organization. It is registered and organized. It indicates its lobbyists. It files quarterly reports under the lobby law, and of course, they would file, appropriately consistent with that legislation, any campaign contributions.

Mr. PARKER. Mr. Conyers, we do not make campaign contributions.

Mr. CONYERS. You mean, your organization has never made contributions?

Mr. PARKER. I am not aware of it.

Mr. CARTER. No, sir.

Mr. CORRIGAN. Mr. Chairman, might I be recognized for a comment?

Mr. CONYERS. Why, of course.

Mr. CORRIGAN. Having had the pleasure to work with the chairman of this subcommittee last year, I guess we engaged in lobbying. In assistance with the passage of the Speedy Trial Act, the National Rifle Association did have registered lobbyists last year. And I say that last year, because I am a holdover from what was the National Rifle Association's lobby effort on Capitol Hill last year.

As you correctly stated, and I think, as Mr. Carter pointed out with response to the contributions that were made, this spring, in fact, late April in San Diego, the board of directors of the National Rifle Association made a fundamental change in its overall operations. It created something called the Institute for Legislative Action. Its representatives have appeared here before you today.

We are complying with all the requirements, lobby laws, reporting, and so on. And I would also add, because I think perhaps some inference may be unintentionally gained by others who are not aware of the legislative process, as those who participate in it, lobby is really nothing more than extension of the democratic process, in which we, who are sitting here representing the interests, as best we know how, of our own membership.

I wish, as you have graciously credited us earlier, that we were indeed the gun lobby. But in reality, the so-called gun lobby probably represents the 50 million Americans—or estimates thereof—who own firearms, who belong to a variety of organizations, of which we happen to be the largest. Many of these are State; some are local. Many of these organizations do not necessarily work in concert with us. But they all determine their own policies. So I think, at least as a purpose of clarification, I wanted to leave those remarks for the record.

Thank you very much.

Mr. CONYERS. They are very well received.

I have a letter here that is to Gen. Maxwell E. Rich, NRA, Washington, D.C.

DEAR GENERAL RICH: Yes, I agree. If guns are taken from our local police and private law-abiding citizens, only the criminals will be armed. I am enclosing my gift of blank dollars to the "NRA Legislative Fund" to fight dangerous and unconstitutional laws that would take away my right to protection by police and private ownership of sporting firearms.

Now, this legislative fund has certainly received, I suppose, some amounts of money. Is that not correct?

Mr. CARTER. That sum of money has been transferred to the institute, and all of it is now being used for legislative purposes, as indicated there. And it is—

Mr. CONYERS. Right. That is the \$4 million we have been talking about. OK, now, is that separate and aside from any other fundraising activity, the legislative fund—I mean, any other fundraising activity?

Mr. CARTER. NRA has no other fundraising activity going on at the present time.

Mr. CONYERS. I see. Well, then, is there any possibility, sir, that you may exceed the collection of \$4 million as has previously been reported and discussed?

Mr. CARTER. I do not know how much is going to come in, Mr. Chairman, but the prospects are excellent.

Mr. CONYERS. That is what I am afraid of.

Now, let us move to the next consideration. These surveys that you have been taking are quite intriguing, of course, to those of us who are trying to establish a climate of objectivity around which our fellow citizens can examine this whole subject of firearms regulation. Are you aware that some of the techniques that you have been using have been called into question, that they have been challenged as perhaps not representative or valid, not to mention a very unscientific method of going about collecting information? You have been advised of that?

Mr. CARTER. I am aware of what you are talking about, Mr. Chairman. And this practice—this letter was something which was in vogue before I came here, and I have taken the philosophical viewpoint that it has been very successful for the purposes for which it is there, and it will gradually fade, as our collection techniques become more sophisticated and more successful.

I am aware of what you say; yes, sir.

Mr. CONYERS. "Your mailing flagrantly violates most of the canons of good opinion research," and they go on to cite the example—this is the chairman of the standards committee, the American Association of Public Opinion Research directing this communication of August 1 to General Rich.

Is there not one way that you can show your good faith organizationally by ceasing and desisting sending out these kinds of surveys?

Mr. CARTER. We have not used those as public opinion surveys are usually used. We have not sent them out to any sources. We have not proposed them to the Congress. We have not proposed them to you as a source of background or information to which you should give credibility.

I do not have those questions in front of me at the present time, but if I recall, they asked very simply, to very ordinary, good American people who work in small businesses, and stores, and filling stations, and farms, and ranches over the country—the first one, I believe, asked something simple, Do you believe in self defense, or something like that? I think a man has got a right to answer whether or not he believes in self defense.

My colleague here, Mr. Chairman, would like to say a word.

Mr. CORRIGAN. Mr. Chairman, if I might respond to the general tenor of your question. As I indicated in my previous response, the Institute for Legislative Action was created after the time that fundraising effort was already begun. The institute itself is not using that particular sample.

I would, however, like to address the broad subject of polls, because I think this is one of the areas that has probably been most abused by a lot of participants in this struggle. I think that one of the things we all ought to combine in doing would be to suggest to the pollsters, those who conduct nationwide polls, among others, that we ask a series of very honest questions with regard to gun control, that we ask some questions as to how they relate to the crime problem, and that we give people some options as to what kind of a response they might make, rather than drawing some conclusions from the basis of a single question in which a person must take an opinion, yes or no.

I would also like to point out, as far as representativeness, and I realize that you like everyone else—when I say you, I mean all of the Members of Congress—try to sample your own constituents to figure out what they are thinking and why, so that you might better represent them. But out of a survey that you might send, the 200,000 members who are boxholders, or whatever the term is used, who happen to reside in your district, how many do you, as members, actually receive, and is that any real scientific sampling of the opinion, even if your own districts, of the 14,000 or 15,000? Those happened to be the 14,000 or 15,000 who happened to return the questionnaire, and is that not necessarily accurate either?

So I guess what I am saying here is, I am not apologizing. At the same time, I am saying that those questions perhaps are indicative of what is wrong with polling in this whole area.

Mr. CONYERS. The letter specifically stated:

The survey results will be released by the NRA to the national press, radio and television, the United States Congress and your State legislatures within the next 2 weeks.

Has there been such a study produced yet?

Mr. CARTER. Mr. Chairman, the gentleman who said that will be done is now no longer responsible for implementation. I am responsible, and I do not plan to do it.

Mr. CONYERS. So there is not going to be a study?

Mr. CARTER. I do not plan, at the present time, to do it.

Mr. CONYERS. Well, actually, is it not correct that the production and the mailing lists for the letter were put into the hands of Vigerie & Co., of Virginia, the principal fundraiser, incidentally, for George Wallace, from which I draw no imputations whatsoever? According to Jeff Coman's—

Mr. ASHBROOK. He is my principal fundraiser too.

Mr. CONYERS. I am sorry. Did my colleague want to indicate something?

Mr. ASHBROOK. He was my principal fundraiser, and I failed.

Mr. CONYERS. We will not draw any imputations from that either, then.

According to Jeff Coman of that company, in a July 10 memorandum from the Library of Congress, which we asked to research this ques-

tion further, the first one-half million letters or so, as of the end of June, did not go to NRA members, but to lists of selected subscribers to "anti-Communist" publications. Conservative publications, he said, were emphasized.

According to Coman, the results of the survey were not projectable like a Gallup Poll, and were sent to mobilize support for the NRA position. And so, our analysis goes on and on.

You tell me now that there will not be a study reported, and the person that heads this is no longer there, and this activity has, in effect, been discontinued?

Mr. CARTER. First, may I express some degree of amusement about the anti-Communist publications, that reference thereto. I am thinking of the L.L. Bean catalog list—that is a catalog that sells sporting goods. I am thinking about the old Saturday Evening Post list. I was thinking about Field and Stream magazine, which is a CBS publication. I do not really know how we classify all of these, in terms of politics. I do not think that a political determination, a political description, could be very accurate, but of course, I have a lot of personal respect—

Mr. CONYERS. This is your employee's determination, and definition. It is not mine. I cannot tell you why Jeff Coman chose to use that language, sir. But it sure makes it worth reporting for some clarification.

Mr. CARTER. Jeff Coman is a very smart man in this field, and I have a lot of respect for him. I do not know exactly how he got that description.

Mr. CONYERS. Well, he said "It did not go to NRA members but to lists of selected subscribers to 'anti-Communist' publications." Now, surely this smart young man would not just pick up Field and Stream subscribers and say that they were anti-Communist.

Mr. CARTER. There were more than 1 million to 2 million, Mr. Chairman. And they came from dozens of magazine lists, and other sources. And one of the purposes, by the way, and one of the purposes of getting the return of these cards is to build that list even bigger. We are in this game for keeps, and we feel like that we are going about it in the best way that we know how.

Mr. CONYERS. There is no question about that. You have been in it for keeps and longer than any other show in town. We are very respectfully mindful of that fact, sir.

Now, let us talk about the National Rifle Association versus television, an incidental, but perhaps not unrelated, part of the struggle for a full discussion of this. During 1975, each of the three television networks ran shows that were perceived by the National Rifle Association, according to your own publications again, as to be antigun or antihunting. And the National Rifle Association, did you not, in very certain and specific ways communicated with your members? Please tell this subcommittee how you handled this approach to what you considered to be biased reporting in the media.

Mr. CARTER. It is difficult to say whether we went to our members, or our members came to us. They came to us by the thousands. They were demanding responses in the courts and in other ways. And they were urging upon us prior restraint, by the way, which we declined with regard to the press, the same as we hope that, later on, people will project for us.

The National Rifle Association made the observation that these were unfair and untrue. They were distorted. Some of the distortions were almost unbelievable, and we would have to get into the specific show or the incidents, in order to be able to relate to those, but we did take a position; yes, sir.

Mr. CONYERS. What did you do?

Mr. CORRIGAN. Mr. Chairman, may I make an observation?

Mr. CONYERS. Can you respond to the question?

Mr. CORRIGAN. I certainly will.

Mr. CONYERS. What did you do?

Mr. CORRIGAN. Mr. Chairman, as Mr. Carter has indicated, the National Rifle Association made a statement as to what its position is.

I think one of the great things that the gun lobby is possessed of in this country is a free press. We probably get a great deal more credit for supposedly artificially stimulating our membership than is really deserved.

Mr. CONYERS. Well, did you not, in fact, sir, direct an editorial to instruct the members, your membership, how to write the FCC, their Congressmen, the network, objecting?

Mr. CORRIGAN. Yes, sir. We certainly did.

Mr. CONYERS. That is what we are trying to elicit. I have read the article. We are just trying to get it on the record.

Mr. CORRIGAN. Yes, sir.

Mr. CONYERS. Now, with regard to a specific show, the CBS show, called the "Guns of Autumn," to which, I understand you took quite strenuous exception—is that correct?

Mr. CARTER. I did not understand the question.

Mr. CONYERS. I said, with reference to the television show on CBS called the "Guns of Autumn," you took quite strenuous exception to. Is that correct?

Mr. CARTER. I would say we took exception to it; yes, sir.

Mr. CONYERS. And how did you approach the handling of that under the first amendment, and your rights to communicate, and free speech, and all of the rest?

Mr. CARTER. We feel like that, along with their right to speak is our right to be informed. We have a right to know. Our people have a right to know, and we feel like sometimes that right to know has been impaired. But it generally comes out in the wash.

Mr. CONYERS. You threatened to boycott their sponsors, did you not?

Mr. CARTER. No, sir.

Mr. CONYERS. That was not a problem?

Mr. CARTER. We talked to the sponsors, perhaps, or some of our members did, out in the United States, but we do not threaten boycotts: no, sir.

Mr. CONYERS. All right. There were no threats from the leadership of the NRA?

Mr. CARTER. No threat to boycott.

Mr. CONYERS. Or its lobby arm?

Mr. CARTER. Not from the Institute.

Mr. CONYERS. I see. And so the fact that the sponsors, in fact, peeled away, was incidental or peripheral to your central activity in that regard?

Mr. CARTER. The answer to that lies in the reaction of about 20 or 30 million people, Mr. Chairman, of which we happen to be only the cutting edge, and no one in America controls the voices of 20 or 30 million people. This "Guns of Autumn" was a hideous sort of a thing. And our people everywhere responded not only to us, in terms of indignation and righteous anger, but they responded to anybody else that would listen to them.

They wrote to everybody about it.

Mr. CONYERS. Do any of my colleagues have any further questions? I will yield to Counsel Gekas. Do you have any questions?

All right.

Gentlemen, I want to thank you very much for appearing here. You have testified many times before on firearms regulation.

We will, of course, examine all of your testimony, which has spoken, across the years to your opinion, and I suppose, going back to the letter that you sent me on July 22, it sums up what we have been doing here for several hours, back and forth:

The NRA's general position regarding legislation on crime control and specifically, on gun control, is well known. The NRA remains unalterably opposed to any legislation that would further impair the rights of recent citizens to purchase, own, or use firearms, including any type of handgun, for unlawful purposes.

[The letter referred to follows:]

NATIONAL RIFLE ASSOCIATION OF AMERICA,
INSTITUTE FOR LEGISLATIVE ACTION,
Washington, D.C., July 22, 1975.

Hon. JOHN CONYERS, Jr.,
Chairman, Subcommittee on Crime,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your letter of July 15, initially sent to General Rich of this organization, graciously inviting NRA to testify before your Subcommittee on Crime. I have not responded sooner because we have been carefully considering the best means to provide helpful information to your Subcommittee.

After careful study I have concluded that no constructive purpose would be served by the appearance of an NRA witness before your Subcommittee at this time. Since the Subcommittee, as you mentioned in your letter, has a vast range of proposals before it, it would be virtually impossible for me or any witness to address all of them meaningfully.

It is my understanding that your Subcommittee is now in the process of formulating its own bill. I feel it would be far more useful if NRA were to present its testimony after your proposal has been introduced.

Further, NRA's general position regarding legislation on crime control, and specifically on gun control, is well known. We favor stringent mandatory penalties for persons who use firearms to commit violent crimes. NRA remains unalterably opposed to any legislation that would further impair the rights of decent citizens to purchase, own or use firearms—including any type of handgun—for lawful purposes.

When the Subcommittee is ready with specific legislation which it wishes to act upon, I would be pleased to receive an invitation to present NRA's analysis and comments.

With every kind wish.

Sincerely yours,

HARLON B. CARTER,
Executive Director.

Mr. CONYERS. And I suppose, when all of this is over with, and the dust clears on this discussion for analysis, that still remains your position, and we perhaps have done little more than, hopefully, develop some clarification around your activities, and your thrusts, and your directions, as we move toward an attempt to do two things. One, to bring a deeper awareness to our citizens about the nature of firearms, and their regulation, to the extent that they can be regulated; and two, the responsibility that this Congress feels that it has, collectively, on this subject.

And this subcommittee, of course, is the cutting edge of this whole activity. And for that reason, we deeply appreciate your very long stay with us this afternoon, and we trust we will have a pleasant, if not totally agreeable relationship throughout the course of the disposition of the bills before the subcommittee.

Thank you very much for coming.

Mr. CARTER. Thank you, Mr. Chairman. We were glad to be here.

Mr. CONYERS. You are welcome.

The subcommittee stands adjourned.

[Whereupon, at 5:03 p.m., the subcommittee recessed, subject to the call of the Chair.]

[The following information was submitted for the record:]

[From the Washington Post, May 2, 1975]

NRA PLANS SUMMIT ON GUN CURBS

(By Lawrence Meyer)

The National Rifle Association has called a "summit conference" to counter what it calls "the barrage of half-truths and outright lies from the anti-gun and anti-hunting groups currently flooding the news media."

The conference, to be held today and Saturday at the NRA's headquarters here, was called in an April 11 letter from the organization's executive vice president, Maxwell E. Rich, to persons "interested in the whole field of the outdoors," Rich said yesterday.

Part of the conference will include a presentation by the Richmond, Va., advertising firm of Webb and Athey, detailing a public relations campaign "to reverse the trend against hunting, hunters and sportsmen," according to Rich's letter.

"The purpose of this conference," the letter said, "is to discuss and take action on a comprehensive public education and information plan designed to counter the barrage of half-truths and outright lies from the anti-gun and anti-hunting groups currently flooding the news media."

"If you read the same signals in the news media that I do, you must agree that such action is urgently needed now."

Although an NRA spokesman initially denied that the organization, which claims 1 million members, was sponsoring the conference, Rich said that the association was the sponsor.

Rich declined to say whom he had invited to the meeting, other than that those attending would be from "the outdoor end of it, the wildlife end of it. I've got people from industry coming. It's a cross section."

More than a score of bills proposing various types of controls on handguns currently are pending in Congress. In addition, Attorney General Edward H. Levi has proposed legislation that would ban handguns in zones in metropolitan areas where the crime rate is increasing rapidly or is significantly higher than the national average.

[From the Washington Post, May 22, 1975]

NRA ASKS DONATIONS FOR LOBBY

(By Lawrence Meyer)

For the first time in its 104-year history, the National Rifle Association is asking its members to contribute to its lobbying effort.

"Under the new anti-gun proposals," NRA executive vice president Maxwell E. Rich warned members in a May 5 letter, "we are rapidly approaching the day when our firearms and ammunition could be confiscated and never returned."

According to Rich's letter, the NRA needs \$41,666 every month to pay its legal fees, research costs, and publicity bills in the effort to "hold the line" against the "anti-gun lobby."

"Please don't let this plea go unanswered," Rich said in his four-page letter. "Please don't lay my letter aside. The ownership of our firearms is at stake. On behalf of your NRA, I beg of you—please respond before May 23 with the most generous contribution you can afford—\$5, \$10, \$25, \$50, \$100 or even \$1,000. Each minute that you delay brings us closer to the day when local or federal agents confiscate our firearms and ammunition."

The NRA's lobbying and legal effort is separate from a public relations campaign that Rich, munitions manufacturers and wildlife interests have begun planning to combat what they see as growing hostility to hunting and guns.

Rich, describing his role as that of a "catalyst," called a "summit conference" earlier this month of individuals interested in the shooting sports. Among the approximately 40 persons attending the meeting on May 2 and 3 were representatives of at least 13 guns or ammunition manufacturers as well as officials of sporting associations and state wildlife officials from Michigan, Mississippi, Maryland and Virginia, sources said.

The conference agreed in principle to conduct a public relations effort "in the field of shooting sports and hunting," Rich said.

No figure was set for the campaign, he said, adding that \$1 million "would not be unreasonable" for a year. Rich said that "as a start," he expected funds for the campaign to come from the organizations and companies represented at the meeting.

According to a proposal made at the meeting by the Richmond, Va., advertising firm of Webb and Athey, a significant effort is needed to combat the "anti-gun, anti-hunting movement."

In his fund-raising appeal, Rich said the "anti-gun lobby" has "more money and more influence with the press and Congress than ever before," and that "the day of total, complete and absolute gun confiscation is so close that I have no choice but to reluctantly sign this letter and mail it to you."

The NRA, which claims a membership of 1 million persons, is generally regarded in Congress as the most effective lobbying force in the area of gun legislation. In his letter Rich enclosed typed, pre-addressed postcards for NRA members to mail to their senators urging them to vote against gun control legislation.

Although several bills have been introduced in Congress this season calling for confiscation of handguns and handgun ammunition, sources in Congress and some of the sponsors of the bills give that legislation little or no chance of passage.

Rich said in a telephone interview, "We've never gone into fund raising before, but now we think it's time we did." Rich said that he sees a need for a greater effort because of a campaign in the media and Congress to pass gun control measures. "You've got a lot of legislative action in a lot of places," he said, referring to bills pending not only before Congress but in several state legislatures as well.

[EDITOR'S NOTE.—This solicitation was mailed during the month of May 1975]
 NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.,
 Washington, D.C.

DEAR FRIEND: Even if you don't have time to completely read my letter, I strongly urge you to answer the four questions in the special survey packet I've enclosed for you.

The questions involve your personal safety and the safety of your home and family.

As I write you this letter, many law abiding citizens are deeply concerned over new and radical laws outlawing the use of guns which are being proposed in the U.S. Congress and State legislatures. These laws will directly affect your right to a safe home.

Many Congressmen and State legislators are undecided on how to vote on this extremely important issue which may well decide on how your local police are able to protect your family.

Your opinion, and the opinion of other law abiding citizens, can influence their vote, so please answer these four extremely important questions in our National Opinion Survey on Crime Control and rush them to me today.

The survey results will be released by NRA to the national press, radio and TV. U.S. Congress and your State Legislature within the next few weeks.

In my five years as the Executive Vice President of the National Rifle Association I have never seen such an organized and politically powerful effort to outlaw the use of firearms throughout America.

If these radical and outspoken pressure groups completely succeed, I firmly believe the safety of each and every person in your neighborhood will be in jeopardy.

Even though you may not own or have any direct interest in firearms, I believe you must be informed of the terribly serious consequences of what the liberal press refers to as "GUN CONTROL".

My friend, they are not talking of "Control"; they want complete and total "Confiscation". This will mean the elimination and removal of *all police revolvers, all sporting rifles and target pistols* owned by law abiding citizens.

In 1973 the occurrence of violent crime increased 32%. Throughout our country a crime of violence, like murder, robbery, assault or rape, occurred once every 36 seconds in 1973.

This means that in 1973 over 869,460 men, women, children or elderly persons fell victims to thieves and hoodlums. *Our courts have done little to protect us.*

The fact is that 65% of the criminals released from prison are re-arrested for new crimes within four years. Oftentimes *the criminal is back on the street before his victim is recovered enough to leave the hospital.*

Tell me, what would the crime rate be if the criminals knew our police were unarmed or a store owner or private home owner could not legally own a gun to protect his property?

I don't believe we can sit back and allow the "Gun Confiscation" people in this country to pass laws that would set the stage for the *most terrifying crime wave* ever to occur in modern history.

The "Gun Confiscation" people tell us that: "Gun Control means Crime Control".

They say: "All we have to do is take all the guns from all the citizens and violent crime will automatically stop".

I don't believe it.

If this so-called solution to the terrible suffering and pain caused by violent crimes in our country would work, I would be for total control of guns. But it just isn't that simple.

You and I know that laws are obeyed by the good, decent members of our community . . . not by the professional crooks and murderers who live by stealing and killing.

All of this is why I need your personal help today. I need your opinion so that I can take your case, our case, to the legislators voting on these laws.

That's why we are conducting this National Survey of Americans, so we can tell our side of the gun control issue to the State and Federal Legislators.

The situation is extremely serious. In the last election 27 Congressmen who supported private ownership of firearms were defeated. At the same time every Congressman who sponsored anti-gun legislation was re-elected.

Right now there are 51 different bills before Congress restricting the ownership of firearms. Many states in the Union have bills in their State Legislatures to restrict private gun ownership.

We cannot sit back and wait. You and I cannot afford to have laws passed that will give criminals control of our homes and neighborhoods, without any fear of punishment.

I have set every available resource at the National Rifle Association into this important fight. The cost is over \$40,000 each month. This includes detailed research, up-to-date information services and expert legal advice.

You may have heard the National Rifle Association referred to as a large, extremely rich, private interest group by the liberal press. This is simply not so. Our million member organization barely has the funds to support our sporting activities like the U.S. Olympic Shooting Team and Training Programs.

We are not rich. And our interest is not private. Our fight is for the protection of you, your family and all other decent, law abiding Americans.

I'm not used to writing letters like this. But I do need your financial support to help pay the important legal expenses needed to defend American's right to protect their homes from criminals and their right to own and use sporting firearms.

I beg of you to act now :

First, answer your 4 survey questions. Let me know how you think the removal of guns will affect you and your community. Remember, the results of this National Survey will be tabulated soon and sent to the National Press, TV and Radio, the U.S. Congress and your State Legislators, many of whom are yet undecided on this issue.

Write a letter directly to your U.S. Senators (c/o Senate Office Building, Washington, D.C. 20510) and tell them how you feel on this issue of your private safety.

Send the largest contribution you can to NRA today so we can lead the legislative fight against the anti-gun forces in America. I hope you will consider sending a contribution of at least \$25.00.

Inform others. Pass this letter along to friends and relatives. If you write and ask me, I will send you a special information brochure on how you can influence others in your community.

It's important to do all you can to help . . . it could mean the difference between our success or failure.

I believe if guns are outlawed, murderers and thieves will have control of our lives and property. We will have no defenses. So please act now.

Sincerely,

Gen. MAXWELL E. RICH, Ret.,
Executive Vice President,
National Rifle Association of America.

P.S. When you return your special survey packet, I will not record your name with your response. Only totals will be released to the public to maintain your confidential opinions. If you feel as I do about the desperate need to fight the outlawing of private ownership of guns, I hope you will send me the largest contribution you can today. Anything you can send will help in this fight.

TO: General Maxwell E. Rich
NRA
Washington, D.C.

(MAIL IN TIME
TO MEET
SURVEY DEADLINE)

Dear General Rich,

- ☐ YES, I agree. If guns are taken from our local police and private law abiding citizens only the criminals will be armed.
- ☐ I'm enclosing my gift of \$_____ to the "NRA LEGISLATIVE FUND" to fight dangerous and unconstitutional laws that would take away my right to protection by police and private ownership of sporting firearms.
- ☐ I'm enclosing my answers to your NATIONAL OPINION SURVEY ON CRIME CONTROL. Please include my responses in the final report that will be sent to State and Federal Legislators.

FROM:

Name _____
Street _____
City _____ State _____ Zip _____

(Your gifts are not tax-deductible)

NATIONAL OPINION SURVEY, ON CRIME CONTROL

P.S. Enclosed are four important questions on crime and the outlawing of firearms. I would like your answers.

The enclosed cards will speed the computerized tabulation of this NATIONAL OPINION SURVEY ON CRIME CONTROL.

The results of this special National Survey will be sent to State and Federal Legislatures.

QUESTION #1

Do you believe you have a right to personally defend yourself and your property against a violent criminal attack?

[illegible]

QUESTION #2

Do you believe your local police need to carry
firearms to arrest robbery and murder suspects?

☐ YES
☐ NO
☐ UNDECIDED

[illegible]

QUESTION #3

QUESTION #3
Do you believe that by banning the ownership of firearms (including sporting and antique guns) that the number of murders and robberies would significantly be reduced in your community?

☐ YES
☐ NO
☐ UNDECIDED

[illegible]

QUESTION #4

If a new firearms law was enacted in your state banning all ownership of guns, do you believe that hoodlums and organized criminals would volunteer their guns to your local police department?

☐ YES
☐ NO
☐ UNDECIDED

[illegible]

BUSINESS REPLY MAIL

NO POSTAGE STAMP NECESSARY IF MAILED IN THE UNITED STATES

Postage will be paid by

General Maxwell Rich
NATIONAL RIFLE ASSOCIATION
LEGISLATIVE FUND
 Box 7415
 Washington, D. C. 20044.

FIRST CLASS
 PERMIT NO. 705-R
 WASHINGTON, D. C.

BUREAU OF SOCIAL SCIENCE RESEARCH, INC.,
 Washington, D.C., July 11, 1975.

Hon. JOHN CONYERS, Jr.,
Chairman, Subcommittee on Crime, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CONYERS: I appreciate your calling my attention to the recent mailing by the National Rifle Association.

For the National Rifle Association to label their solicitation a "National Opinion Survey on Crime Control" constitutes an irresponsible use of the term "National Opinion Survey."

I am concerned about this abuse of the accepted meaning of "opinion survey" both as a member of the professional community of practitioners of the survey research method and because of the special interest I have had in applying this method in the area of crime and criminal justice.

NRA has every right to attempt to identify those most likely to support their positions, to phrase slogans in a way calculated to gain the greatest assent, and to get as many expressions of endorsement of these slogans as they can. To call such an effort "National Opinion survey . . ." however, seems to me a transparent and illegitimate attempt to misappropriate for it the meaning and repute of national opinion surveys that professional survey practice has built among the public.

There would be scant danger of many members of the public, the press or the legislature mistaking reports of responses to the NRA mailing as representing national public opinion if such reports disclosed the specific questions that were put, how they were put and to whom. What is to be feared is that statements might be made about results of the "National Opinion Survey on Crime Control" without such disclosure. The impression would thereby be conveyed that these were results of an effort having such features the public has come to expect of national opinion surveys as:

1. Unbiased statistical sampling of the population of the nation.
2. Unslanted questioning.

Published reports of information attributed to polls or opinion surveys is a special object of attention of the National Council on the Published Polls. I would suggest that you call the attention of that organization to reports of this NRA campaign your committee may receive.

Since the resemblances of the NRA "survey" to a professional national opinion survey are largely nominal, it is ridiculous to apply to it the kinds of scientific and technical criteria that one would apply to a serious attempt to gauge public opinion. One cannot evaluate how well questions are calculated to determine what the public thinks when the questions are obviously constructed to tell respondents how they should think. One cannot apply political science criteria with regard to how well a questionnaire affords all respondents the opportunity to express their sentiments on issues as they confront legislative attention when one is dealing with an effort to confound these issues by use of the rhetorical tactic of false opposition. (I know of no such proposals for denying citizens the right of self-defense, for disarming policemen, banning sporting weapons or predicated upon hoodlums surrendering weapons freely.)

Even apart from any possible effect the NRA effort may have in misleading anyone regarding the true distribution of national public opinion on the issues of crime and firearms legislation, there is reason to complain about what the

NRA is doing. Disreputable use of the term "opinion survey" is damaging to the useful role that responsible polling and survey studies play in the life of our republic, including bringing to attention the opinions the public develops through its experience and concerns with crime. I am therefore bringing the information I have on the NRA's mailings to the attention of the Committee on Standards of the American Association of Public Opinion Research.

Sincerely yours,

ALBERT D. BIDERMAN.

BUREAU OF SOCIAL SCIENCE RESEARCH, INC.,
Washington, D.C., July 11, 1975.

Dr. MERVIN FIELD,
Chairman, Committee on Standards, AAPOR,
Field Research Corporation, San Francisco, Calif.

DEAR MERV: Should it not already be a subject of attention of the Committee on Standards, I wish to request that the Committee investigate and take action with regard to the abuse of the term "National Opinion Survey" by the activity of the National Rifle Association, described in the enclosures.

Sincerely,

ALBERT D. BIDERMAN.

AMERICAN ASSOCIATION FOR PUBLIC OPINION RESEARCH,
New York, N.Y., August 1, 1975.

Gen. MAXWELL E. RICH, Ret.,
Executive Vice President,
National Rifle Association of America, Washington, D.C.

DEAR GENERAL RICH: I am writing to you in my capacity as Chairman of the Standards Committee of the American Association for Public Opinion Research regarding a recent mailing sent out by the National Rifle Association. The mailing contains a four-page letter signed by you; a name-and-address response form which asks the sender to agree with the statement: "If guns are taken from our local police and private law abiding citizens only the criminals will be armed" (no space for disagreement is provided), and to send a gift of money "to fight dangerous and unconstitutional laws that would take away my right to protection by police and private ownership of sporting firearms"; and a questionnaire labelled "National Opinion Survey on Crime Control" containing four questions to be answered "Yes", "No", or "Undecided", as follows:

Question 1. Do you believe you have a right to personally defend yourself and your property against a violent criminal attack?

Question 2. Do you believe your local police need to carry firearms to arrest robbery and murder suspects?

Question 3. Do you believe that by banning the ownership of firearms (including sporting and antique guns) that the number of murders and robberies would significantly be reduced in your community?

Question 4. If a new firearms law was enacted in your state banning all ownership of guns, do you believe that hoodlums and organized criminals would volunteer their guns to your local police department?

I point out to you that your so-called "opinion survey" is not a survey at all. It is an open appeal for support for a point of view which you and the NRA have publicly espoused. I, and the professional association in whose behalf I am writing, have no quarrel with your advocacy of this point of view, or any other. We do, however, most vigorously protest against your improper use of the term "opinion survey". This term has come to have a particular meaning to the public and to business and government leaders, and we believe that your activity constitutes a misleading and deceptive use of the term which will tend to create confusion and misunderstanding, and which will have detrimental effects on the ability of legitimate business, academic, and governmental survey researchers to operate.

Your mailing flagrantly violates most of the canons of good opinion research. To cite two of the most obvious ones:

1. A legitimate opinion survey is designed to obtain the opinions of a true sample or cross-section of some defined population. Your effort is clearly intended and designed to elicit replies only from persons who support NRA's point of view.

2. A legitimate opinion questionnaire will be worded to present issues as objectively as possible, will offer answer alternatives that span the range of possible opinion, and will take pains to insure that the sponsor's bias toward a certain answer is not communicated to the respondent. Your questionnaire does none of these things: it is an outright appeal for partisan support for a point of view which is clearly revealed in the covering letter, the solicitation for funds, and in the way in which the questions themselves are worded.

In short, your effort can in no respect be considered a real "opinion survey" as that term is presently used.

Legitimate opinion surveys are an important component of present-day society. They provide a unique source of feedback from the public to business, government, and political policy makers. They are as vital to the healthy growth of a democratic society as are the more traditional rights of freedom to communicate divergent points of view to the public, and to mobilize a body of people behind an issue and to petition the government for action in support of that point of view.

In order to preserve the viability of opinion surveys, they must be clearly distinguished from partisan lobbying. To the extent that the public is subjected to efforts such as yours which adopt the term "opinion survey" but which are clearly self-serving and not intended to be objective measurements of all shades of opinion on an issue, then the high degree of public trust and frankness in answering questionnaires which is essential to the conduct of true opinion research will be diminished, the conduct of important legitimate surveys will be impeded, and we will all be the losers.

I therefore urge you most strongly to desist in the use of the words "opinion survey" or any other phrase or word which would tend to identify your enterprise as an objective survey. When your present the results of your mailing to state and federal legislators, we ask that you refrain from using the term "opinion survey" or any similar term, and that you make an effort to point out that despite the title of the survey you do not represent the findings to be a true "opinion survey" as that term is commonly used.

I am confident that you will understand the basis of our objection to your use of that term, and I hope that you will be willing to comply with this reasonable request.

Thank you for your consideration.

Yours very truly,

MERVIN D. FIELD,
Chairman, Standards Committee.

VERA INSTITUTE OF JUSTICE,
New York, N.Y., July 22, 1975.

Mr. GENE GLEASON,
*Subcommittee on Crime, Judiciary Committee, House of Representatives,
Washington, D.C.*

DEAR MR. GLEASON: Thank you for the opportunity for me to present my views on the validity of the NRA poll.

As you know, I have had extensive field experience in survey research and statistical methods in the social sciences and have taught those subjects as a Political Science Professor at the State University of New York at Stony Brook. My interest in this poll was also sparked by my activities in the criminal justice area as Senior Research Associate at the Vera Institute.

In brief, from everything I know and can see about this poll, its results are fraudulent and totally without value to members of Congress.

(1) As in all survey research, the first question to ask is how the sample was drawn. The size of the sample does not indicate anything; witness the 1936 magazine prediction of Franklin Roosevelt's defeat. It is the randomness of the sample that is important.

Since this is a sample of NRA members and their ideological brethren, at best this survey tells you what NRA members feel. Presumably NRA's position is already well known without need of a survey.

Indeed, the questions are structured so that even this survey does not provide a random sample of NRA members. In mail surveys of this sort it has commonly

been found that only those members who are already most consistently supportive of the organization's views bother to respond.

(2) The questions are obviously loaded and intend to evoke a feeling of extreme personal danger in which there is no police protection. And just in case the respondent doesn't get the hint from the questions, the letter sets them up with the proper answers.

(3) The questions are not relevant to the issues at hand. Most blatantly, the questions imply that the Congress wishes to disarm the police and that it wishes to deny the rights of peaceful antique gun collectors. That is, of course, false.

(4) The interpretation put on some of these results is bound to be misleading. I am sure that many people would say yes to question #1—they have a right to self defense—but would not feel their defense should take the form of bullets from their own small handguns.

I wonder whether the NRA will point up this interpretation of the answers to question #1.

(5) The placement of the I.B.M. keypunch card background is intended, I suppose, to lend an act of scientific computer—like objectivity to this survey. The graphics unfortunately can't substitute for the real thing.

(6) The misuse of survey research—of which this is a classic example—is a problem to which the officials of the American Statistical Association have been addressing themselves. As an example, I am enclosing a copy of a recent insert in the bulletin of the ASA's New York Chapter.

I would suggest to the NRA that they do their own position a great disservice by lending their prestige to such an unscientific and unworthy effort.

If you have any further questions for me, please feel free to contact me.

Sincerely yours,

NORMAN J. JACKNIS,
Senior Research Associate.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 10, 1975.

To: House Judiciary Subcommittee on Crime. Attention: Gene Gleason.
From: Daniel Melnick, Analyst, Government and General Research Division
(Frederick Pauls, Assistant Division Chief)
Subject: The National Rifle Association Survey: Views of Jeff Coman.

This memorandum reports a telephone conversation between Mr. Jeff Coman (spokesman for Viguerie and Co.) and me. At your request, I approached Mr. Coman for information on the National Rifle Association survey. This memorandum does not constitute an analysis of the survey, but merely reports the information Mr. Coman supplied to us. I have not made any attempt to confirm that material.

The survey was prepared for the NRA by Richard A. Viguerie and Co. Mr. Coman has primary responsibility for conducting the survey. According to Mr. Coman, the survey was sent to people who NRA believes are not gun owners. They were randomly selected from the subscription lists of "anti-Communist" publications. The lists were obtained from a list broker. Between 3000 and 5000 names were randomly selected from each list using a computer which selected names on an equal interval basis i.e. every nth name. According to Mr. Coman a random selection procedure was used to insure an even coverage of different conservative publications.

The results of the poll are returned to NRA where they are key punched and tabulated. To date there has been about a 20 percent rate of return from the approximately 500,000 people who received the mailing. Mr. Coman indicated that it was his understanding that the results of this survey could provide information on the reactions of Conservative people to the letter sent along with the survey. "The purpose of the letter was to get them to answer the survey." Consequently "the results are not projectable like a Gallup poll," i.e., they cannot be used to make statements about the opinions of the population of the United States.

Further, Mr. Coman stated that it was his belief that the survey did not measure the prior attitudes of individuals who received the letter but rather their attitudes after they read the letter. The letter was designed to "mobilize support for the NRA position."

An analysis of the methods used in this survey is being prepared and will be forwarded to you on its completion. If there is any other way in which I may be of assistance to you please do not hesitate to call me on 426-5824.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 18, 1975.

To: Judiciary Committee Sub-Committee on Crime. Attention: Gene Gleason.
From: Daniel Melnick, Analyst, Government and General Research Division
(Frederick H. Pauls, Deputy Assistant Chief).

Subject: The National Rifle Association's National Opinion Survey on Crime Control.

This memorandum responds to your request for an analysis of the validity of the National Opinion Survey on Crime Control being conducted by Richard A. Viguerie and Co. for the National Rifle Association. The issue of validity is difficult to establish in any survey since it depends upon the claims which are made for the results. Because no report of the results is available at this time, it is not possible to directly assess the validity of the survey.

Nevertheless, using information provided to us by Mr. Jeff Coman (of Richard Viguerie and Co.) summarized in my memorandum of July 10, it is possible to outline the limitations on the meaningfulness of the NRA data. These limits will determine the valid statements which NRA could make based on these data.

The limitations of any public opinion survey can be understood by examining the sampling procedure used and the population which was sampled, as well as the procedures used in ascertaining opinions. First, let us consider the sampling procedure used.

Sampling.—According to information provided to us by the firm administering this survey, its primary purpose is to mobilize support for the NRA position. As such, the sampling design was planned with this aim in mind. Accordingly, this survey does not use a national probability sample similar to the type used by Gallup and Harris. Rather, it is based on a sample of a limited population: the subscribers to a selected set of conservative and anti-Communist publications. 500,000 subscribers were randomly selected from a number of lists. 3000-5000 were taken from each list. Strictly speaking this resulted in several random samples of several lists. According to Mr. Coman, sampling was used to try to achieve a balance of different conservative publications. Consequently, once the results are in, it will not be possible to make valid statements about the opinions of the American public (as a whole) from these data. Rather, all statements will be limited to the subscribers of those conservative magazines whose lists were sampled. Because it is highly unlikely that the subscribers of any selected set of publications reflect the characteristics of the general population, claims of representativeness for this sample will also be subject to a very high probability of error. Such error would normally be unacceptable if one wanted to make valid estimates about the opinions of the population of the Nation.

While the NRA claims that the list used is not a list of its members or gun owners, no attempt was made to discover if the persons receiving the survey were gun owners or members of the NRA. If an unduly high proportion of the population sampled (the readers of conservative publications) were in fact members of the NRA or gun owners this would call into further question the representativeness of the population surveyed.

Further, in the absence of a list of the publications whose subscribers were sampled, it is not possible to say anything about the claim that a balance of conservative magazines was achieved. We have requested Mr. Coman to provide us with such a list. While he has not provided a complete list, he has indicated that "a few gun owner oriented" publications' lists were sampled. In addition to the subscribers' lists of publications such as Human Events (a conservative Washington magazine and Reason Magazine a libertarian publication), the NRA also selected persons from the membership lists of the Military Book Club and the Libertarian Book Buyers service, according to Mr. Coman.

Of further interest concerning the sample is the following passage from the letter accompanying the survey:

"All of this is why I need your personal help today. I need your opinion so that I can take your case, our case, to the legislators voting on these laws."

"That's why we are conducting this National Survey of Americans, so we can tell our side of the gun control issue to the State and Federal Legislators."

The claim that the survey is a "National Survey of Americans" encounters the problem that while the NRA sample includes Americans from all parts of the Nation, it is not a randomly drawn representative sample of the population of the United States.

According to Mr. Coman, about 20 percent of the recipients of the mailing have returned it. While this rate of return might be considered to be good for a fund raising mailing, it is not high enough to produce projectable results for a survey.

Problems Relating to the Use of a Mail Survey

Yet another factor limiting the usefulness of the data obtained from the NRA sample relates to the use of a mail questionnaire technique. It is difficult to control the administration of mail questionnaires. For one thing, it requires a great deal of effort to insure that the addressee actually completed the form rather than some one else. Secondly, the printing, mailing, and callback procedures involved in a mail questionnaire are critical to the results obtained. It does not appear as if the NRA procedures were designed to control for these problems. For example, we are unaware that any callback or pretest procedures were used to improve the quality of response. Accordingly, it is not possible to know the extent to which these errors have biased the results obtained.

The Survey as a Test of Opinion.—Another important evaluative consideration concerns the meaningfulness of the information collected from the people who received the mailing. Evaluating meaningfulness depends upon the claims which the surveyers make for their results; which, as stated at the outset of this memorandum, we do not yet have.

The design of a survey is always a difficult process. The change of a word, the addition of a phrase, the nuance of an expression—all can have a biasing effect on the result. When reduced to its lowest dimension, a survey only indicates that a specific question with designated alternative answers, asked in a given series of questions during a known time period will produce certain answers. Everything else we say about a survey depends on inferences we make to a broader context. Absent a report of the survey results, we are safe only in reviewing the possible valid ways these data might be used.

In view of the nature of the sample outlined *supra*, there seem to be at least two ways in which such data could be analyzed. (1) These results might be used to test the effectiveness of the letter sent out in mobilizing support for the NRA position, or (2) they might be used to test the previously held opinions of the recipients of the survey.

A careful consideration of these uses reveals several areas in which each is subject to exception. Consider the following points:

(1) If used as a test of the effectiveness of the accompanying letter, the following problems might occur:

The letter concerns gun control or "confiscation" legislation pending before Congress, but the recipients are not asked their views of this legislation.

Consequently, they are not given the opportunity to say if they favor such legislation or oppose it. Hence, the survey cannot be used as a test of the effectiveness of the letter in convincing recipients to oppose gun legislation. Thus, while questions 3 and 4 do relate to gun control legislation, the recipients of the letter are nowhere directly asked if they support such legislation.

The letter contends that gun control is equivalent to gun confiscation. No question was asked to determine if the recipient was convinced of this by the letter.

Question 2 states "Do you believe your local police need to carry firearms to arrest robbery and murder suspects?" This question does not seem aimed at testing the effectiveness of the letter because in the letter General Rich does not claim that gun legislation would disarm the police. He does say, however "This will mean the elimination and removal of all police revolvers, all sporting rifles and target pistols owned by law abiding citizens." While the implication is left that "police revolvers" belong to the police, and gun legislation might take them away from the police, General Rich does not say this. Yet Question 2 raises the issue of the disarming of the police in the context of gun control. At present, no legislation that would disarm the police is pending before Congress. One wonders whether many recipients of this mailing would have been confused by this question.

The form accompanying the survey questions must be considered as a part of the survey in assessing the survey's meaningfulness. That form contains the following check off:

"[—] Yes, I agree. If guns are taken from our local police and private law abiding citizens, only the criminals will be armed."

The recipient is given no other alternative. It is possible that many recipients of this mailing, not wanting to be disagreeable, might have checked this box. If an alternative had been presented the results could have differed. It is possible that those disagreeing simply failed to return the questionnaire. According to Mr. Coman 80% of those receiving the mailing did not respond. The wording of this item leaves it open to the criticism that since the disarming of the police is tied to controls on private citizens, the question is not relevant to legislation which does not call for the disarming of the police.

(2) If used to test the opinions of subscribers of conservative publications, the following problems are present:

A letter presenting the NRA position on gun laws was included along with the survey. No opposing arguments were presented. It is highly likely that the inclusion of such a letter might have been interpreted by the recipients as an indication that the authors of the survey were interested in receiving replies from those persons who could support the NRA position.

Consider the following statements made in the letter:

"As I write you this letter, many law abiding citizens are deeply concerned over new and radical laws outlawing the use of guns which are being proposed in the U.S. Congress and State legislatures. These laws will directly affect your right to a safe home."

"In my five years as the Executive Vice President of the National Rifle Association I have never seen such an organized and politically powerful effort to outlaw the use of firearms throughout America."

"If these radical and outspoken pressure groups completely succeed, I firmly believe the safety of each and every person in your neighborhood will be in jeopardy."

"Even though you may not own or have any direct interest in firearms, I believe you must be informed of the terribly serious consequences of what the liberal press refers to as "GUN CONTROL."

"My friend, they are not talking of "CONTROL;" they want complete and total "CONFISCATION." This will mean the elimination and removal of all police revolvers, all sporting rifles and target pistols owned by law abiding citizens."

"In 1973 the occurrence of violent crime increased 23%. Throughout our country a crime of violence, like murder, robbery, assault or rape, occurred once every 36 seconds in 1973."

"This means that in 1973 over 869,400 men, women, children or elderly persons fell victims to thieves and hoodlums. Our courts have done little to protect us."

And a bit further on:

"I don't believe we can sit back and allow the "Gun Confiscation" people in this country to pass laws that would set the stage for the most terrifying crime wave ever to occur in modern history."

The "Gun Confiscation" people tell us that "Gun Control means Crime Control."

They say:

"All we have to do is take all the guns from all the citizens and violent crime will automatically stop."

"I don't believe it."

"That's why we are conducting this National Survey of Americans, so we can tell our side of the gun control issues to the State and Federal Legislators."

These statements (without accompanying balancing material) would have very likely biased the responses received from any survey to which they were attached. Respondents had been put on notice of the views of the researchers. Under these circumstances it is possible, even probable, that recipients who disagree with the NRA declined to respond. This absence limits the statements that can legitimately be made from the 20 percent response.

In sum, the NRA survey was directed to a very limited population (the readers of certain conservative publications). By their admission it was designed to help them "tell our side of the gun control issue". Consequently, results from it cannot be used to make inferences concerning the opinions of the population of the United States. At best, they might be used as a test of the reactions of the recipients to the letter NRA sent out. Even this use is subject to a high degree of error due to anomalies in the question wording.

If there is any other way in which I can be of assistance, please do not hesitate to call me on 426-5824.

FIREARMS LEGISLATION

THURSDAY, OCTOBER 9, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2247, Rayburn House Office Building, the Honorable John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Rodino, Conyers, Mann, Hughes, McClory, and Ashbrook.

Also present: Constantine J. Gekas, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

We are very happy to have with us our distinguished colleague from New York, the Honorable John M. Murphy, who is a graduate of the U.S. Military Academy and chairman of the Subcommittee on Oceanography of the Merchant Marine Fisheries Committee. He also serves with great distinction on the Interstate and Foreign Commerce Committee.

Mr. Murphy has had a continuing concern about the subject matter of this subcommittee, and has been deeply involved in the development of firearms legislation, as his testimony, which has been prepared and submitted to the committee in advance, will demonstrate. With all the weapons you have brought with you, Congressman Murphy, we welcome you before the subcommittee to proceed in your own way.

[The prepared statement of Hon. John M. Murphy follows:]

STATEMENT OF HON. JOHN M. MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF NEW YORK

Mr. Chairman, I come before this committee to seek favorable consideration of H.R. 9815, the Gun Certification Act of 1976. There is no question that this Nation is in desperate need of a way to control the literally millions of weapons circulating among the criminals, lunatics, and would-be assassins that are in our midst. Within the next 45 minutes, as we sit here and talk, another person will fall dead in this country from gunshot wounds. Twice in recent weeks, it might have been the President of the United States with a bullet in his head. And unless we act to prevent it—forcefully and immediately—the shots will continue to be heard every 45 minutes, and the bodies will continue to pile up, and sooner or later, the President might be among them.

It took this country almost 200 years to respond to the dangers of guns in the hands of criminals and social deviates. While every civilized country in the world acted to protect its citizens with tight control over the sale and ownership of firearms, Congress did nothing until the Firearms Act of 1934. And that was, in retrospect, a farce. With the gun lobby prodding Congress, the 1934 act simply required a purchase tax to be paid on machine guns, sawed-off shotguns and sawed-off rifles. Very little restriction, I point out . . . just a sales tax.

So the criminals armed themselves with pistols and semi-automatic handguns, and the killing continued. An outraged public stirred the Congress to action. The result was almost as fruitless as the 1934 law. The Federal Firearms Act of 1938 offered the "improvement" of simply prohibiting dealers from "knowingly" doing business with criminals. This emasculating wording incidentally was insisted upon by the National Rifle Association.

The ineffectiveness of the main provision of that legislation is apparent: Over the next 30 years, the Government was unable to obtain a single conviction under that section—the most crucial section—of the act.

Finally, in 1968, the Congress concluded eight years of debate, and, stirred by the assassination of a host of political leaders, passed the 1968 Gun Control Act. That was the first half of a national policy to control firearms traffic to felons, addicts, and the like, which had been developed by the Justice Department under the Kennedy-Johnson administration.

President Johnson, in a message to Congress on June 24, 1968, stated that when that foundation legislation—"providing basic protection against interstate slaughter by firearms"—passed, the licensing proposals made in his message should be enacted for the protection "so long denied the American citizen."

Thus, the 1968 act addressed itself to the future interstate manufacture of firearms and ammunition. The second half of the overall plan, as envisioned in the 1968 presidential message to Congress, was a system of identifying and licensing persons who already had in their possession the 150 to 200 million guns estimated to be abroad in the land, in addition to licensing future sales.

The 1968 act was passed only because the National Rifle Association and its mouthpieces in Congress had lost some of their audacity. They did not want to fight a gun bill which was being called for by a then sickened and shocked nation. One of their spokesmen on the House floor on June 5, 1968, the afternoon of the day Senator Robert Kennedy lay dying in Good Samaritan Hospital in Los Angeles, reluctantly admitted that the Nation wanted restrictions against weapons in the hands of criminals or mentally incompetent or irresponsible persons.

However, in his next breath he bluntly presented the *real* position of the National Rifle Association by stating that because of the assassination there would be:

"... A new wave of hysteria by the ragged fringe who will seek to take advantage of any opportunity for oppressive legislation which would ban all individually owned weapons. To reject the gun restrictions which are carried in this bill could result in something worse."

The final comment by this former member of the board of directors of the National Rifle Association was added in his last statement before the House vote on this bill which in effect said the National Rifle Association was *allowing* the House to vote on title IV of the Omnibus Crime Bill. He said:

"I think my colleagues in the house will be interested in knowing that I have discussed this matter with the National Rifle Association and with other organizations dedicated to the proper interests of law-abiding sportsmen and the reasoning which I have advanced in (sic) concurred in by them . . . as a result, they interpose no objection under present circumstances to the adoption of this language by the House."

So with the powerful gun lobby temporarily at bay, President Johnson on June 19th signed the measure into law and for the first time in thirty years Federal firearms laws were not only modernized but substantially strengthened.

But the gun lobby, weakened for a short while by the Kennedy and King assassinations, regrouped with a vengeance.

The incoming Republican administration rejected the licensing bills then in Congress. Indeed, the coalition of the NRA, its 40 member Congressmen and Senators, administration backers, gun and bullet manufacturers were back in full business within weeks. Senate advocates of licensing could not get a subcommittee quorum to even discuss the bill. In the House, the judiciary chairman was fearful that hearings on gun control might bring enough gun lobby pressure to actually repeal the 1968 law.

The Republican administration openly opposed registration and licensing legislation. In an NRA public session on firearms law, in April, 1971, a special assistant to the Secretary of the Treasury reminded the audience that the administration opposed registration and licensing. He stated that the administration had "opened a two-way channel between the White House and the firearms field for open, clear dialogue on all matters concerning private firearms ownership." He pointed out that "high ranking members of the White House staff have already held two mutually helpful conferences at the White House

with representatives of firearms organizations, manufacturers and gun publications." This special assistant to the Secretary of the Treasury, this White House spokesman responsible for administration policy on gun control, was a man named G. Gordon Liddy. Liddy promised his audience that the administration "did not confuse the 40 million law-abiding gun owners and sportsmen with criminals."

Mr. Chairman, as a result of that promise, we have in this year of 1975 passed a rather remarkable and lamentable milestone. Over 1 million civilian Americans have been killed by firearms since 1900. In comparison, there have been 573,000 Americans killed in *all* our wars put together, including the revolutionary war. In 1947 *alone* there were 20,600 murders, with 68% of them—over 14,000—by firearms. Almost two murders during each hour of every day of the year. By contrast, Great Britain, with its strict gun control legislation, over a recent five year period registered a total of 7 murders by firearms. Great Britain, it should be noted, does not even need to arm its police due to its strong gun policy. To continue with the grim statistics, the United States last year had 166,000 robberies involving firearms, and 108,000 aggravated assaults with guns. Including the murder victims, that is almost a third of a million Americans who last year looked down the business end of a gun, 14,000 are dead.

Who represented those 14,000 dead at Mr. Liddy's White House meetings? Were the 166,000 robbery and 108,000 assault victims who were threatened with guns represented at the White House? Did anyone speak for the third of a million who are *year after year after year* killed, robbed, assaulted and threatened with a gun?

The answer to that rhetorical question is, of course, "NO". This task, as it always has, shall fall to the Congress. We are the representatives of those murder, robbery and assault victims. We *must* speak for them. And only we, the legislative body of our democratic government, can produce the laws to protect them.

I have always considered Federal gun control laws to fall into the realm of the "politics of the possible," with the passage of the 1968 gun control act, which I authored, we had the sound basis for a complete package of legislation. It is now time . . . far past time . . . that we complete the job before us.

I want legislation that can and will pass the Congress. This is where the "politics of the possible" comes in. A total ban on handguns is confiscatory, discriminatory, and not politically feasible. The bill before the committee, the gun certificate act of 1976, will achieve what we tried to do in 1969, when we were thwarted by people who are no longer in government.

Briefly, the bill requires that a person who possesses, purchases or transfers a firearm must obtain a federal certificate stating their eligibility to possess such a weapon. The certificate would contain all the pertinent information on both the applicant and the weapon he intended to acquire, and would subject the applicant to a brief waiting period while his eligibility was certified through the national crime information center, an already existing computerized data bank. Certificates would not be granted to indicted or convicted felons, fugitives from justice, mental incompetents, illegal aliens, those who have renounced their citizenship, persons with dishonorable discharges from the armed services, and those affiliated with organizations dedicated to the overthrow of the United States government by force or violence.

Mr. Chairman, the gun lobby always presents the argument that "guns don't kill people, people kill people". This legislation, then, goes directly to the heart of the argument: We would certify that a *person* is eligible to acquire and possess a lethal weapon. This proposal would help to insure that only non-criminal, responsible, mature citizens would be in possession of firearms. We obtain a license to drive an automobile without due inconvenience; I see no more burden involved with respect to obtaining a certificate to possess a firearm, which has but one major purpose: to kill.

TESTIMONY OF HON. JOHN M. MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE 17TH CONGRESSIONAL DISTRICT OF THE STATE OF NEW YORK

Mr. MURPHY. Thank you, Mr. Chairman. May I congratulate you on holding these hearings in spite of the atmosphere of today. With just a few short days since two assassination attempts, you might well be

labeled a hysteria Congressman holding hearings on hysteria legislation, because of those attacks; and most rational people, of course, do not fall for that line.

Mr. CONYERS. Especially because we have been doing it for 7 months.

Mr. MURPHY. The former 6½ months are forgotten, and the line against any legislation, of course, is it is hysteria legislation.

I have always considered Federal gun control laws to fall into the category of politics of the possible. We are here before this Crime Subcommittee to discuss the need for a reasonable approach to gun control. To be fair, we should hear both sides of the issue; we should hear from those who favor abolishment of all controls on weapons. If I were such an advocate of gun possession—say, perhaps, Sarah Moore, Lynette Fromme, Lee Oswald, Sirhan Sirhan, Jack Ruby, or James Earl Ray—I might do this; take a weapon from my pocket and get rid of the chairman of this committee [indicating], as four of them did. Perhaps we could do it to the ranking minority members simply.

Mr. CONYERS. Is this a subcommittee chairman that got wiped out?

Mr. MURPHY. It could easily happen.

But who gave me this gun? A private party who only asked that I pay for it in cash. Am I fit to possess this gun? Have I committed a crime before? Am I mentally competent, an illegal alien, or an addict? Nobody asked. Am I a person who advocates the overthrow of the United States by violent means? No, and it was a private transaction. It was a cash sale, and there are 150 million of these floating around the United States, and these [indicating] and those [indicating] throughout the society with no control on the movement of them in the private sector.

When we go to the list of characters I just read—Sirhan Sirhan, James Earl Ray, Sara Moore, Squeaky Fromme, and a thousand others like them—each transaction that they got a gun at was a private transaction with no control. If I really wanted to be cute, I could go out and get a weapon, a .22-caliber rifle, for free from the U.S. Army, and get the ammunition for free if I was a member of the National Rifle Association.

Before we passed the 1968 act, and prior to the assassination of President Kennedy, all you did was get the rifle from the NRA magazine and take a coupon out of it, send it in, and get a .30-caliber rifle. When we protested that, they then said you had to be a member of the NRA, and that was the qualification for getting that military weapon.

The point is, there are estimates of up to 150 million guns in circulation, and they are in private hands. They are not covered under either the 1968 Gun Control Act or Saturday night special legislation that we have proposed, and not enacted into law. The 1968 act banned the sale of imports and interstate mail-order gun sales, and addressed itself to the future sales of firearms. In that act, we embargoed the sort of weapons we see here [indicating] on the left side of the board, and at the top. They could not be imported.

The rifle at the top is a Mannlicher-Carcano, the rifle which killed President John F. Kennedy. It holds six bullets, as you see, right below the gun. The bullets are generally the type used on elephants and other big game. Also embargoed were the surplus military arms, such as the British Enfield. The Enfield was legal until the barrel was cut off. It is a military weapon, and outdated.

So, with the great number of them, they were cheap and easy to get on the market. Then, gunrunners filled the embargo gap with a domestically-manufactured weapon that, while still inexpensive, filled the role of the imported Saturday night specials. Hundreds of thousands of these general precision guns—that top gun is a general precision gun manufactured in Bohemia, N.Y.; also manufactured in Alabama in a trailer truck, and in a church in Florida.

And so, I introduced legislation which would apply the same limits on domestic guns that we applied to the imports under the 1968 act. This brought forth a hue and cry from domestic manufacturers of such weapons as this eight-shot, .22 caliber gun made in Massachusetts by Iver-Johnson. That is an exact model of the weapon that killed Robert F. Kennedy. The Iver-Johnson sells for about \$60, and fits the definition of a Saturday night special.

Therefore, it is not the cheapness of the weapon, but its concealability, which is critical. The small Derringer which you see right there [indicating], this him and here, they are made by Colt. They are a matched pair with consecutive serial numbers—a gift set for the assassin who has everything, the cute little gun that took care of Garfield and a few Russian czars and a few other people.

The third row of guns is typical of the estimated 150 million weapons which do not fall under either the 1968 act, the Saturday night special legislation, or current firearms transfer laws between individuals. We have reached the point where closing the Saturday night special loophole is not enough.

For example, even in my bill, which as in the administration and McClory bills, one of the "musts" in the factoring criteria is the requirement that a barrel length must be 3 or 4 inches. Three inches now applies to imported handguns. Yet, in a paper prepared for me by Treasury agents outlining deviations of the intent of the 1968 act, the gun runners again found a way around the 1968 act to arrive at the snubnose "belly gun"—they simply cut off the barrel once it gets into the United States.

The report to me states:

The final method of deviation involves the importation of sanctioned sporting type revolvers with the importer, special jobber or eventual dealer accomplishing alterations to the weapon by cutting off the barrel to a desirable "snub nose" length. This practice is commonplace in a minimum of five leading importers. In addition to defying the intent of the law, the barrel shortening process has hindered enforcement agencies in that the identification markings of the importer are sometimes removed or obliterated during the alteration process. The investigation surrounding recent homicides in both New York City and St. Claire County, Missouri, encountered firearms of the above-described modified variety.

I am surprised there were not any Detroit cases in this study.

When I asked the Treasury Department for the names of the above manufacturers, I received a letter from one of the command people in the Treasury Department denying me the information. This was during the Liddy era. I ask this committee to investigate this practice of cutting off gun barrels to make concealable Saturday night specials. I think the committee could do that. Just ask the Treasury Department.

I might also add that the National Rifle Association, in testimony before this committee last week, indicated that it had a \$4 million plus slush fund, dedicated to the sole purpose of the defeat of all gun control legislation now before this committee and the Congress. There

were over 14,000 murders by gunfire last year alone. That means the NRA is prepared to spend approximately \$286 for each of those deaths to try to convince the Congress and the American people that each death was worth it.

Let us just take the 286,000 Americans who look down the business end of one of these [indicating] in an armed robbery last year. Last year, 286,000 looked down that business end, 14,000 died.

Now, I would like to go back a couple of years. I am going back to my testimony before this committee on June 27, 1972. I will drop down to about the third page when I said there——

Mr. CONYERS. By the way, there were different members of this committee in that year.

Mr. MURPHY. I understand there were and I am quoting from 1972. I am referring to my 1971 testimony when I testified in 1971 before the Judiciary Committee on Saturday night special legislation. I charged that the administration under G. Gordon Liddy was not enforcing the Gun Control Act to its full potential. This was not a figment of my imagination. It came out of the mouths of administration officials. G. Gordon Liddy assured the NRA assembled gun owners in 1971:

The Administration has already aided gun owners by exempting all small arms ammunition and ammunition components from its 1970 Explosives Control Act and by supporting amendments to the '68 Gun Control Act which exempted rifles and shotguns, shotgun ammunition from record keeping requirements and which are expected to do likewise for .22 caliber rim fire ammunition.

I go on, since 1969, the administration has refused to enforce the recordkeeping provisions on ammunition as mandated by the Congress. House Report 92-661, on a bill to repeal recordkeeping on .22-caliber rimfire ammunition, contains a recommendation by the Treasury and Justice Departments for the enactment of the bill. The committee report quoted a Treasury Department representative as saying:

There is not a single known instance where any of this record keeping has led to a successful investigation and prosecution of a crime.

This administration representative could make that statement in all honesty. In order for a law to be helpful in crime control, it has to be enforced. The ammunition provisions were not being enforced.

I skip a few paragraphs. That the administration was reluctant to stop the flow of firearms at many levels, is evidenced by my experience over 15 months with the Liddy-led Treasury Department which frustrated any efforts to obtain information on the production and distribution of Saturday night specials. In March 1971, my office was supplied with a document entitled, "Deviations From the Intent of the Gun Control Act of 1968" which contained information on domestic Saturday night special producers.

In May of 1971, at my request, I was sent a letter outlining the effectiveness of the 1968 act. The above information came from law enforcement agencies, the men in the Alcohol, Tobacco and Firearms Division of the Treasury Department who do the actual work, the men who are just as frustrated by the free flow of weapons in this country as most Americans. On June 3, when I wrote for additional information on the producers of Saturday night specials, I received a letter from a person at the command level which repudiated not only the letter on the 1968 act, but also his own agent's report on Saturday

night specials, despite the fact it contained information on obvious law violations.

That letter from Commissioner Harold Schwartz on July 14, was so disturbing to me that I wrote directly to Secretary John Connolly on July 26, 1971, asking for a full explanation of Schwartz' non-response, his repudiation of his own agents, and his refusal to co-operate. After receiving no reply, I called Secretary Connolly on the telephone on August 6, 1971, as I was leaving the city on congressional business. The Secretary apologized for the delay and told me a reply was on its way. I have yet to receive that reply, 4 years later.

On August 20, 1971, I wrote to 15 domestic Saturday night special producers whose names and addresses I obtained from independent sources. I wrote to these federally licensees and asked for a minimum of information. I simply asked for brochures and other documents normally used in business activities. Not one has acknowledged my request.

When the administration-backed .22-caliber ammunition repealer was making its way through various House committees, I wrote the Internal Revenue Service Commissioner, Hon. Johnny Walters, and asked that he make available to me one agent for several hours to review the records of several Maryland ammunition dealers with a member of my staff. I received an acknowledgment on October 21, 1971, which said, "this matter will be looked into so that we may respond to you as soon as possible." That is the last I heard from Mr. Walters.

The cooperation I received during the Liddy years from the Treasury Department came when I asked for a dozen domestically produced Saturday night special handguns to use at a display board at the Celler hearing. On Tuesday, June 20, I was told they would be made available. On Thursday evening at 5 p.m. I was informed the guns would be unavailable because the Treasury Department would be using them on Tuesday.

The weapons I have on the board today were supplied to me, and this was on that date, by Police Commissioner Patrick Murphy of New York City who then testified after I testified at that point.

At this point, Mr. Chairman, I was addressing Mr. Celler. The point is the Congress decreed all firearm dealers were to be federally licensed in order to operate within the law. They now have in the administration firearms advocates who have instilled in some of the borderline dealers the attitude that they are untouchable and that they can act with impunity. I would ask this committee to investigate current practices to see if the above situation still exists anywhere in Treasury.

I must also say that current relationships with the Bureau of Alcohol, Tobacco and Firearms has been a much more cooperative one. They have also been much more aggressive in getting funds for their programs, as is exhibited in an exchange of letters with my office concerning their 1975 budget.

I have come today to seek favorable consideration of legislation I have introduced in the last Congress and, of course, again in this Congress, H.R. 9815, titled the Gun Certification Act of 1976. There is no question that this Nation is in desperate need of a way to control the literally millions of weapons circulating among the criminals, lunatics, and would-be assassins that are in our midst. Within the next

45 minutes, as we sit here and talk, another person will fall dead in this country from gunshot wounds. Twice in recent weeks, it might have been the President.

It took this country almost 200 years to respond to the dangers of guns in the hands of criminals and social deviates. While every civilized country in the world acted to protect its citizens with tight control over the sale and ownership of firearms, Congress did nothing until the Firearms Act of 1934. And that was, in retrospect, a farce. With the gun lobby prodding Congress, the 1934 act simply required a purchase tax to be paid on machineguns, sawed-off shotguns and rifles. Very little restriction, I point out—just a sales tax.

So the criminals armed themselves with pistols and semiautomatic handguns and the killing continued. An outraged public stirred the Congress to action. The result was almost as fruitless as the 1934 law. The Federal Firearms Act of 1938 offered the improvement of simply prohibiting dealers from knowingly doing business with criminals. This emasculating wording incidentally was insisted upon by the National Rifle Association. The simple inclusion of the word “knowingly” in that act completely gutted the act.

The ineffectiveness of the main provision of that legislation is apparent: Over the next 30 years, the Government was unable to obtain a single conviction under that section—the most crucial section—of the act.

Finally, in 1968, the Congress concluded 8 years of debate, and, stirred by the assassination of a host of political leaders, passed the 1968 Gun Control Act, an act that, I introduced in 1963, early in that year, which was almost acceptable to the gun lobbies because of its commonsense. But it became labeled hysteria legislation in November of 1963 with the assassination of President Kennedy. That 1968 act was half an act. The 1968 act controlled the flow of weapons, it controlled the future sales of weapons. It did not control the flow of the 100 million to 150 million weapons in the society in private transaction.

So, what do we say in the Federal Certification Act—we say we must control this private movement, this sale between persons who are not certified. How does a person become certified? He becomes certified very simply. Right here you have a form [indicating] and this form, it is a form requiring it be filled out completely, a very simple one page thing when you authorized a sale of a weapon under the 1968 act.

Mr. CONYERS. What form number is that?

Mr. MURPHY. This is 4473, a very simple form.

It has been the law of the land since 1968. Do you know what that is? That is a gun registration form. The NRA has not told its membership that since 1968 all sales of weapons have been registered. They have all been registered. They are still saying we must fight against gun registration or your weapons will be confiscated. They are going to confiscate your weapons and never get into the Washington computer on a list where they can pick up every law abiding, patriotic citizen's weapon, disarm America, so that the Communists can take over. That is their line. That is the way the NRA keeps their paychecks coming in—it is one of the highest paid lobbies in America—by scaring their constituents and not telling them that since 1968 we have had Federal registration and there has not been a single rifle, shotgun or pistol taken from a single citizen since that time.

Registration is not the big bugaboo. But, I will tell you what you can do. You can write a letter to the National Rifle Association and get their mailing list. And you have got virtually every gunowner in America on their mailing list. And they are worried about a centralized location of the gunowners' records in America. They have got it, but they will charge you \$35 to get that mailing list. And there you have got it, right in the public sector, the list consolidated of the gunowners in America. Do not let the National Crime Information Center have it. Do not let them have it because on this form you cannot be certified if you are a convicted felon, a fugitive from justice, a juvenile, a mentally incompetent, an illegal alien, a person who has renounced his citizenship, and the one category that I add, a person who advocates the overthrow of the U.S. Government by force. That is simply what we want to do, is have people be certified that they are not in the categories that I just mentioned.

We are not going to cut down on the ownership of rifles or shotguns or pistols. We want to stop the private transactions between the lunatics like Squeaky Fromme and her boyfriend who handed her the gun. He would not do it if he was going to face a 5 year and a \$10,000 fine. Also, Sarah Moore would not have picked this little dolly up if she had known—and the person who transferred it to her would have known he faced 5 years. Sirhan Sirhan would not have gotten that Iver-Johnson that was purchased for the specific purpose of protecting a home by a homeowner. He would not have transferred that over to Sirhan Sirhan if he faced 5 years of passing it over to a person who was not certified.

What the Certification Act says is you as a citizen file the certificate with the Department of the Treasury; back comes a certification because you have certified you are not. You go into the computer and the computer agrees you are not in the categories I just said. What happens, you have maybe a raft of guns. You like guns, it is part of your hobby. You want to transfer a gun. You say to the person, where is your gun certification, your gun certificate? He pulls out of his wallet his certificate. You sell him the gun and you notify the Treasury that you sold it to John Jones with his certificate number and the number of the gun; so that the transaction is then on his record as owning that weapon.

As we go back through these assassination attempts; where did we find out the weapons that we used in these assassinations? The national crime information center as soon as the weapon was picked up, the serial number went right to the headquarters. The headquarters in 30 minutes popped out the owner of the weapon, where it was purchased. The little nut that shot up the Russian Embassy in New York; where did we get that information? The New York City Police picked up the rifle, got in touch with Treasury, the serial number came across, went right back to the dealer, and that person was treated. That is gun registration. It has been on the books since 1968. It has not scared a single intelligent person that understands it.

We were able to trace those guns of violence through this means and never was one restriction placed on a hunt. I think it is time the Congress starts to understand that the gun lobby and their magazines, which 60 percent of them are bona fide, are instructive, are worthwhile, they go to the conservationists, they go to the fishermen, they go to the

hunters, they go to the marksmen, bona fide, worthwhile hobbies and professions in many instances throughout America.

Let us stop this private flow between the illegal alien, between the mental incompetent, between the person who wants to overthrow America by force. Let us stop that 100 million guns around. We put controls on sales and future sales and importations. Let us put the second half of that philosophy that was in the Democratic program—that was in the Democratic program of 1960. Let us put it into effect to stop this transaction through the private sector.

Thank you, Mr. Chairman.

Mr. CONYERS. I deeply appreciate your testimony. You have reminded us that you have been involved in this for quite awhile, Mr. Murphy, and I appreciate your continued concern and the way that you have gone about attempting to develop an approach, I think, that's going to be very important.

I would like to move on and try to establish several things. When you say a "reasonable approach" to crime control, you talk about concealability. Is the problem concealability or availability?

Mr. MURPHY. It's both. Availability and the illegal transaction is the main point. Let's stop that. Obviously, a rifle can be concealed under certain circumstances. Pistols of various sizes here you have things that look like a hogleg that are still pistols, and you've got this little thing [indicating]. Concealability is certainly something. The Saturday night special is not necessarily cheap, as we pointed out. It's concealable. You want to stop the concealable weapon from being carried. But we also want to stop the availability and the flow.

Mr. CONYERS. In terms of the deeper question, registration is one of our interest. How would your bill address the question of availability? And if it doesn't, I would suggest that we tackle that problem. Because, as you pointed out correctly, we have millions of handguns out, millions more being manufactured and added to the stream of commerce every year. So it would seem, I think, to most of the members of the committee after these 7 months, that what we have to do is to determine whether we're going to rationalize this arms race, if you will, or whether we're going to try to reduce the number.

What views would you give the committee on this subject?

Mr. MURPHY. I think we have to deal with my opening paragraph, with what is passable, what is possible, what the Congress can do.

The opponents group the following terms as confiscation: registration and certification and licensing. That's supposedly confiscation. They write to their 50 million lobby that they advertise as people that will follow their line, and they say that this legislation is eventual confiscation. That's how they group it. That's why we say control the sales, only permit the sales to the people who are not in the categories that I listed.

You are permitting the American, the hunter who wants to own a weapon but who is capable of owning a weapon, to have one. In the Certification Act, you block that transfer of weapons through the society.

Mr. CONYERS. If you don't mind, suppose we suspend until the record vote is taken. There are two bills on, and I just noticed it myself. We will come back to order as soon as this vote has been completed. The committee is in recess.

[A brief recess was taken.]

Mr. CONYERS. The subcommittee will come to order. Sorry to interrupt the proceedings, but this takes priority.

Back to our questioning.

How would you treat with the matter of the availability of millions of handguns which to me seems to underscore the major problem that we are wrestling with?

Mr. MURPHY. The Certification Act has an amnesty period for a turn-in of weapons. People can voluntarily turn them in and be compensated for them by the Government.

Second, in the act, it's inherent that the person who owns a weapon must be certified. Otherwise, they are in violation of the law. They may not transfer a weapon or they are in violation of the law. I think these commonsense provisions, and enforceable provisions, are such that will cut down on a great proliferation. I think that the turn-in provision alone will take a great many weapons voluntarily off the market.

Mr. CONYERS. I think that gets us started. I guess that reaches the reasonableness description that you set if people would cooperate this way.

Mr. MURPHY. Can I say something about reasonableness?

Mr. CONYERS. Yes.

Mr. MURPHY. Just as soon as this committee started its hearings 7 months ago, the National Rifle Association put out its bulletin that this committee and the Congress was going to take weapons away from the police. This was in the Washington Post and the press across the country. This is their line on fighting all gun legislation. They throw out the scare: You're trying to disarm the police. Nothing could be further from the truth.

When you confront the National Rifle Association with that, and you ask them the question as to where that release came from—and I have searched the legislative libraries here for any piece of legislation that even remotely affects or looks like that, and I can't find any—that's the type of tactic we're fighting when we want some reasonable controls in America.

Mr. CONYERS. One of the provisions you mentioned in terms of the category of prohibited persons is anyone who advocates the overthrow of the Government. How would you determine who?

Mr. MURPHY. By force.

Mr. CONYERS. How would you determine whether to check that one off or how would the police authorities determine who such a person is?

Mr. MURPHY. We say specifically a person who is a member of an organization whose aim is to overthrow the United States by violence. What that does, if a person is a member of the Weathermen or the SLA and these different organizations, if they are a member, then they would not be certified to be able to possess a weapon. Or they could not be certified. So they would just be excluded from possessing or owning a weapon. And if they did, they certainly would be subject to the law.

Mr. CONYERS. These organizations have adopted the position that would require their members to advocate the overthrow of the Government by force?

Mr. MURPHY. In their speeches, they advocate the violent overthrow of America because they say we can't make changes in America through the normal constitutional process.

Mr. CONYERS. What about the Socialist Party? The Socialist Workers Party?

Mr. MURPHY. I would have to examine the speeches of their leaders and also their constitution.

Mr. CONYERS. The Communist Party.

Mr. MURPHY. I would have to examine carefully the Communist Party of the United States' statements because I think it's well known to people that the Communist Party advocates the overthrow of the United States by any means. But now we would have to analyze how acute they are in the United States and whether or not they go to that extreme. If they did, we certainly would prohibit them, any member of that organization, from owning or transferring a firearm.

Mr. CONYERS. If you examine the leader's remarks, they might not be reflecting the position of members who might not approve or support them.

Mr. MURPHY. Then the members should renounce the organization and leave it, particularly in that sector.

Mr. CONYERS. Especially if they wanted to be removed from the excluded class of persons under your bill.

Mr. MURPHY. That's right.

Mr. CONYERS. It sounds like it presents some pretty serious constitutional problems.

Mr. MURPHY. I think an assassination of a President constitutes a pretty serious problem for the country and the Congress.

Mr. CONYERS. Were those persons who attempted to assassinate the President members of organizations that advocate the overthrow of the Government?

Mr. MURPHY. Yes. Every category listed here in the 1968 Act, we took the Presidential assassins, the ones who killed Presidents, every one of these categories, felons, the mental incompetents, the drug users, the people who renounce their citizenship—those are the ones who have done the assassinating. That's where these categories came from. And we added the persons who advocate the violent overthrow of America as this last category. We are all-encompassing. Even the latest group of assassins.

Mr. CONYERS. In other words, without this provision, they might have been able to have been otherwise licensed under existing regulations?

Mr. MURPHY. Yes.

Mr. CONYERS. I turn now to the gentleman from South Carolina, Mr. Mann.

Mr. MANN. Thank you, Mr. Chairman.

Congressman Murphy, you've made a very impressive statement here based on long experience. You have been a great help to me, and I have no further questions.

Mr. CONYERS. Thank you. Congressman Hughes of New Jersey.

Mr. HUGHES. Thank you, Mr. Chairman.

I want to thank—

Mr. CONYERS. Just a moment. You raised a question, Mr. Ashbrook. The fact that you came in last, I thought that you would probably appreciate having more time. If you don't want to proceed, I don't know why you raised the point.

Mr. ASHBROOK. I thought normally we rotate. But it doesn't matter.

Mr. CONYERS. I didn't think we did.

Excuse the interruption, Mr. Hughes.

Mr. HUGHES. Mr. Chairman, I don't have any questions. I want to say to my colleague from New York who is the chairman of my OSC Committee that I haven't really heard a more forceful, reasoned statement before this committee. And I want to commend my colleague because I think he's put his finger on one of the big problems, the emotional problem that unfortunately is involved in registration.

I know you have been one of the leaders in gun control. I commend you for all the work you've done over these many years.

Thank you, Mr. Chairman.

Mr. MURPHY. If I could respond. My colleague is from the State of New Jersey. The NRA constantly says, look at the Sullivan law in New York. It didn't work because it applied to New Yorkers. The weapons could be purchased in the Jersey City-Newark areas. Finally, New Jersey enacted a State statute that basically went—you can't go into a sporting goods store in New Jersey and buy a weapon without registering. Every New Jersey hunter knows that.

Mr. HUGHES. My colleague is absolutely correct. Throughout the country, as you know, we have the same problem. I think something else you've said today is extremely important. And that is that unfortunately the NRA and the other groups that have opposed an extension of the tracing law fail to advise their readership that we have had in effect a form of gun control, of registration since 1968. But they gloss over that, and they don't want us to plug the loopholes that obviously exist in the legislation.

I think you have brought that point home extremely well today, better than I have ever heard it said in the hearings that I have sat at.

Thank you, Mr. Chairman. And thank you, Mr. Murphy.

Mr. CONYERS. Last, but not least, my friend from Ohio Mr. Ashbrook.

Mr. ASHBROOK. Thank you, Mr. Chairman. I was not able to be present for your statement, but I have scanned it. I don't recall. Was the Johnson administration in favor of registration of firearms?

Mr. MURPHY. The Democratic administration and the Democratic Party in 1960 voiced its philosophy on the control of weapons. And the 1968 gun act was the first half of that. It was enacted, and we have had registration of rifles, shotguns and pistols in America for 7 years. The 1968 act is a registration act. There has been no hunter, no marksman who ever had a weapon who has ever been tapped on the shoulder, let alone a weapon taken from him, under the registration provisions of the 1968 act.

What we want to do is the other half of what we said in 1960.

Mr. ASHBROOK. For the record, what did you say in 1960 in the Democratic Convention? Were you for registration of firearms?

Mr. MURPHY. Of course, it's not registration per se in the context the NRA would have you believe—that registration is a confiscation. We wanted to control the sale by number and gage and type of weapon and by individual. And we did that in 1968, and most States have enacted similar provisions within their state.

Mr. ASHBROOK. I guess I asked that because in reading your statement, I hadn't realized it was a political party issue. You mention at

least three cases of the Republican administration being against, and the inference is that the Democratic administration has been for in the past and would be in the future.

Is it your position that the Democratic Party, generally, is for registration, and the Republican Party, generally is against? I'm trying to read in.

Mr. MURPHY. You and I were in the Congress together when President Johnson sent a message to Congress asking for registration. And we passed the 1968 act. It was originally intended to be the 1963 act, but once the hysteria label was placed on reasonable legislation in this field, it took us 5 years to pass it. So we have had 7 years of registration.

I pointed out in my statement, in the part you missed, the nonenforcement of the 1968 act by the administration. And I go through chapter and verse in my testimony before your committee in 1971 and again your committee in 1972, pointing this out. It's all in that statement.

Mr. ASHBROOK. Let's shift for a minute to the enforcement in New York, which is an area you probably have better knowledge of, having lived there.

Mr. MURPHY. It's near and dear to my heart.

Mr. ASHBROOK. You do have registration in New York.

Mr. MURPHY. Yes, we do. In New York; New Jersey, surrounding States, you cannot buy a firearm without registering yourself, your address. You must have a reasonable means of identification. And then that purchase is certified here in Washington to the National Crime Information Center. And I use the example of the little nut that shot up the Russian Embassy. He dropped his .22. The police picked it up, got ahold of the NCIC, got the number, went right to the dealer, the dealer identified him, and they picked him up.

Mr. ASHBROOK. Is it legal or illegal for an individual not associated with law enforcement in New York City, an area you would know best, to own a firearm, distinguished from purchasing a firearm?

Mr. MURPHY. Yes, he can, provided he gets a gun permit from the city of New York.

Mr. ASHBROOK. So it's illegal to own or possess a firearm in New York City without either registering at the time of purchase or meeting some legal test to own it.

Mr. MURPHY. Without a permit. Right.

Mr. ASHBROOK. In your opinion, does that work?

Mr. MURPHY. Yes, it has. It's worked in many instances.

Mr. ASHBROOK. Do you feel there are many or no or a reasonable amount of guns in the possession of individuals in New York City now which are not registered, for which there is not a permit?

Mr. MURPHY. We have a proliferation of gun ownership in New York State by people who would be excluded from owning them. As I have outlined in my testimony earlier, they are all here in this Federal form, 4473, and I read them off. They are felons, fugitives from justice, convicted drug addicts, mental incompetents, juveniles, illegal aliens, persons who advocate the overthrow of the United States by violent means. Those people are not permitted to own a weapon, to purchase a weapon, or to transfer a weapon.

Mr. ASHBROOK. I would say to my friend and colleague, your testimony is that gun registration, so-called gun control, in New York City has worked?

Mr. MURPHY. Gun control can't work in any single oasis because guns are like people. They are constantly moving in a society. New York enacted the Sullivan law years ago. It was the oasis. Where did the hoods go? They went out to New Jersey. They went down to Ohio. And they purchased their weapons, and in they came. Because we could not enforce—

Mr. ASHBROOK. I think we're rewriting history on that.

Mr. HUGHES. That's north Jersey. Right?

Mr. ASHBROOK. I was reading a book on organized crime just a couple of weeks ago. And it seems during that period of the Sullivan Act—I don't want to spread among the record—but hundreds of gangland shootings, murders, mob murders, et cetera, so I doubt the testimony of the gentleman is what he wants to convey—that the hoods moved out of New York because of the Sullivan Act.

Mr. MURPHY. I would say this: The crime statistics of cities in your State are much higher on the list, including the Nation's Capital, for that matter, than the crime rate in New York City. The Sullivan law had us down around 18 or 20 as far as violent crimes using firearms was concerned. It was a depressant. The biggest flow of weapons into New York in the cases made, were from South Carolina.

Mr. MANN. My district.

Mr. ASHBROOK. The last statistic I saw, would say to my friend and colleague, indicated that almost 25 percent of the murders in the United States were in four or five cities, one of which was New York, one of which was Detroit, one of which was Washington, D.C. And I think since that time, we heard in Cleveland—it since then passed Detroit. I don't think you can really state that categorically as a statistic.

Mr. MURPHY. If my colleague is comparing the city of New York with 8½ million people in it and total number of murders, and Tacoma, Wash., with 140,000 people, I don't call that a very valid comparison.

Mr. ASHBROOK. Murder per million or murder per thousand.

Mr. MURPHY. New York is down, very down in the statistics.

Mr. ASHBROOK. You are testifying—and I point this out because I think you're the first person I've heard who has held out to this committee that the Sullivan Act and gun control permit laws have worked in New York City—to get to the final question—that is your final testimony?

Mr. MURPHY. Yes, it worked. In the jurisdiction to which it was confined. That's why I am here testifying for a national control of the nuts in America. I've just categorized them in each of their categories.

Mr. ASHBROOK. What about 99 percent of the people who aren't nuts?

Mr. MURPHY. We are exempting them. Certifying them as being able to own a weapon, possess or transfer a weapon or purchase a weapon. We're trying to take the 95 percent of the people who are not felons, who are not fugitives, who are not drug addicts, who are not juveniles, who are not illegal aliens, who do not advocate the violent overthrow of America. And we want to stop the flow of weapons to them. These weapons are all significant, the models that assassinated Presidents and Senators and civil leaders and religious leaders, they are all there. [Indicating.] Each one of these assassins got a weapon through a private transfer. And we're trying to stop the private transfer.

Mr. ASHBROOK. Can you give this committee the number of private individuals in New York City who have firearms on the basis of a legal permit?

Mr. MURPHY. Firearm or pistol?

Mr. ASHBROOK. A pistol.

Mr. MURPHY. I will certainly get the pistol statistics from the city of New York for you.

Mr. ASHBROOK. We received testimony earlier that it was probably under 1,000.

Mr. HUGHES. Mr. Chairman.

Mr. CONYERS. I recognize the gentleman from New Jersey.

Mr. HUGHES. One of the things I think many people fail to realize is that registration is an invaluable tool in the hands of law enforcement. One of the big problems that law enforcement people have is the inability to trace weapons because we have so many loopholes and gaps in the 1968 law. As my colleague knows, it stops at the first purchaser. There is no requirement that the second, third transferee be registered. And therein lies much of the problem.

In addition to the deterrent aspect which is perhaps a little more indirect, I think the larger aspect of the problem is one in trying to locate those who commit offenses. It's important for law enforcement people to be able to tie-in, by chain or custody, ownership and possession of weapons. We can't do it under present law.

Mr. ASHBROOK. Would my colleague yield?

Mr. HUGHES. Of course.

Mr. ASHBROOK. I would certainly acknowledge that to be the case, but where do you stop? Would it not also be an effective tool to law enforcement if we had the voiceprint of every American, if we had a fingerprint identification card, if we had a spectograph of every single gun that's in possession? Where do you end this? All of these would be effective tools to law enforcement. At what point do we start getting to a police state?

I don't think that should be the only criteria. I would say honestly, to my friend and colleague from New Jersey, all of these things, I would admit, certainly would help in law enforcement. I suppose a dossier on every single American with every bit of information that could be put in would be an effective tool.

Mr. HUGHES. My colleague is arguing the extreme. Obviously it's reasonable rules and regulations that have to be promulgated. Living in a civilized society as we do, obviously the dictates of rules and regulations change. And what's happened is that the gun, the people that misuse the gun, have become a tremendous problem.

Obviously, you have to balance the interests of society against the freedoms that my colleague is concerned about. And I would submit we have a lot of restrictions on our freedoms that are reasonable rules and regulations that do prescribe, however, things that restrict freedom.

Mr. MURPHY. If I could just emphasize one thing. Millions of Americans have been killed by firearms since 1900, other than wars and that type of death. Last year alone, 268,000 looked down the business end of a pistol or rifle or shotgun in an armed robbery or holdup. Forty thousand have died. The President has been shot at twice within a month.

I think it's time we stop the movement in the private area, the cash sale. The boyfriend of "Squeaky" Fromme gave the gun to her. That cat would get 5 years for doing that under a Certification Act, provided he didn't fall under one of those categories. If he did, of course, he would have been guilty with the pistol alone.

It's a question of controlling this private movement through America. No one is going after the bona fide hunter or marksman. I think that the gun lobbies do a disservice to the marksmen and hunters, the gunowners, the collectors, the antique people, and try to lump them in so their lobbying activity here, this \$4 million fund I referred to—they're not going to sell a \$4 million fund on promoting national marksmanship. They're going to sell the \$4 million fund on confiscation, disarmament of police, and that type of a program.

It's like the AMA raising money, saying we're going to have socialized medicine, while the docs pull it in.

And it's the same thing with the bona fide hunter and marksman, to this group of people who are perpetuating a palace down here, merely for the one reason of their own lobby bureaucracy and not to promote the sporting emphasis of firearms.

Mr. CONYERS. Let me ask my colleague, isn't the Gun Certification of 1976, which he presents to this subcommittee for its consideration, in essence a registration and licensing piece of legislation?

Mr. MURPHY. No more than the 1968 act. It's the unfinished business of the 1968 act.

Mr. CONYERS. Mr. Murphy, how do you feel about making the factoring criteria part of the law? As you probably recall, the administration bill would codify the factoring criteria.

Mr. MURPHY. We want, by regulation—and we give latitude to the Secretary in his promulgation of regulation and how he does this—there's latitude in that recommendation.

Mr. CONYERS. Changed or modified would be very difficult if we pass it in Congress.

Mr. MURPHY. I am only dealing with I think it is possible to do to protect people in America from the 5 percenters that cause the crime in your cities and my cities.

Mr. CONYERS. If the factoring criteria were to stop the manufacture of cheap handguns, is it conceivable that the vacuum might be filled with more expensive guns that did, in fact, meet the established criteria?

Mr. MURPHY. We did not label cheap under Saturday night special. That \$60 Iver Johnson is a Saturday night special because of its concealability. It is a question of rationale. A .22 or a .38 have different dimensions, but they still fall within that criteria of size, concealability. What we want to do, though, is concealable or not, do not let the felon have the gun. Do not let somebody sell it to him for cash. Do not let him have access.

Mr. CONYERS. The problem is not how many criminals are getting guns. You know the statistics as well as I, that 62 percent of the homicides from handguns are not committed by criminals. The overwhelming majority are committed by friends and acquaintances. So my question to you is, how the devil do we reduce this availability which you concede is a very important factor? I think that the factoring

criteria is only going to move us to a different level, that the vacuum created will soon be absorbed in a number of ways, and people will just pay \$15 or \$20 more. As a matter of fact, as you suggest, the factoring criteria would pick up some expensive weapons.

Mr. MURPHY. When you examine deeply the statistics of those people who use the gun, when they are a relative or a association, we find many of them have criminal records.

Mr. CONYERS. That is true.

Mr. MURPHY. Therefore, you cannot say this is brother-in-law crimes because the persons involved have criminal records and fall into these categories.

Mr. CONYERS. What about the major point. If it is cast into concrete by a congressional enactment, and then we eliminate the so-called Saturday night special—and thank goodness that term is not being kicked around too much in your presence—what happens with that vacuum? Are we really going to eliminate x percentage of the handguns? Based on your experience in this subject, would that vacuum soon be filled again by whatever the next level is, and I guess the next level from a Saturday night special is a Friday night special?

Mr. MURPHY. Friday nights are getting as expensive as Saturdays, I guess. I think the response to that, John, is that we have an amnesty period in this piece of legislation. Those people can turn those weapons in and be compensated for them. That is going to take a number of weapons off the market. Then we are dealing with what I feel is passable legislation and not building such strictures into it that reasonable Members of the House and Senate will be precluded from supporting because we have taken away the rational argument to some of the elements that will input into them from their States and their districts.

Mr. CONYERS. And then you think voluntarily we are going to reduce the number of handguns by people turning them in under your bill?

Mr. MURPHY. Yes. We always have. We had a very responsible newspaper in New York years ago, called the Journal-American. Once a year Journal-American got together with the police department and said we are going to have a big amnesty day and turn in all the weapons and military gear that is around. Tons of grenades, machineguns, mortars, pistols, rifles, came into the Journal-American. They put them in a barge, took them out to sea, and dumped them. That is how people voluntarily turned them in.

There is no valve like that now. Here is a national valve for all that extra stuff to get turned in and for the guy to be compensated for it at the same time.

Mr. CONYERS. I have not seen any indications during the 7 months we have been at this, that there is a mood among our citizenry to voluntarily turn in guns.

Mr. ASHBROOK. I would associate myself with that statement.

Mr. MURPHY. You have these categories of people here who will voluntarily turn them in and be compensated because—

Mr. CONYERS. It is out of that struggle that unfortunately in my bill I finally decided that the only way we would ever begin to move on the subject—and it would take years, even under a flatout prohibition, to begin to diminish, not to speak of eliminating handguns from society. So, I really have trouble with that.

But, do you agree with me that it is the quantity of guns and not the quality of guns that is the problem? It is back to availability again. Is that not what is really at the core of this thing?

Mr. MURPHY. Quality does not enter. I would not want to get hit with a rusty gun. It is the number of guns around and the people that have them. We hear the business that guns do not kill people, people kill people. That is not true. People with guns kill people.

Let us get the control on those people that are the killers, the people who are classified here who have hysterically built themselves into these classifications as murderers and assassins.

Mr. CONYERS. Expensive guns can kill as effectively as inexpensive guns. So, how would your bill keep these guns off the streets?

Mr. MURPHY. It eliminates these categories of people, the less people in the criminal area, or the strange area, the perpetrating area, from having guns—the people who are certified are going to be so much more careful about their weapons and what they do with them because of the penalties in this provision.

Mr. CONYERS. Does your bill permit anybody from subsequently modifying handguns that are imported under the sporting purposes exception in the law?

Mr. MURPHY. In other words, where the imported legal gun comes in and you cut the barrel off, that is in there. It prohibits that.

Mr. CONYERS. But you would not prohibit the manufacture of inexpensive weapons? In other words, you are not limiting manufacture at all?

Mr. MURPHY. Yes, we are. We are doing exactly what the 1968 Act did on the importation. You must meet the seven point criteria—a combination of barrel length, chain, pressure, quality, that builds more into the weapon, so it has to be a more expensive item to manufacture. You are not going to get that top middle thing (indicating) that when we fired it up in New York, it exploded in the hands of the person firing it. That is another reason we should have the support of the gun lobby, to stop the manufacture of that because it is a hazard to the person firing it.

Mr. CONYERS. You do not have a factoring criteria in your bill?

Mr. MURPHY. It is my "Saturday night special" bill.

Mr. CONYERS. But you are not testifying in favor of that. You are testifying in favor of your Gun Certification Act of 1976. You are for both of them. You see them as a combination package of bills?

Mr. MURPHY. As I said in my testimony, the "Saturday night special" bill does not go far enough. We have to go into this certification provision as well.

Mr. CONYERS. That is the first I heard of that. I thought you were suggesting that within the Certification Act of 1976, you had factoring criteria.

Mr. MURPHY. No. We have the factoring criteria in the "Saturday night special" bill that has been before the committee since January.

Mr. CONYERS. It will not be much longer. I can assure you. This is the last hearing. One of the reasons that we kept the hearings open was to make sure that persons with your dedication and concern across the years would certainly have a chance to come before us, and we are very grateful for your appearance this morning.

Mr. MURPHY. I appreciate that, Mr. Chairman, and as I came back over between the rollcall, one of my colleagues, two of my colleagues were discussing gun legislation. One said, do not even try to explain anything to anybody about gun legislation, because everybody has a closed mind—confiscation, registration, certification, they all mean the same thing. That is how effective the propaganda arm of the NRA has been. I certainly hope people understand Federal form 4473. Since 1968, you have had registration; the States have had registration. Call it by any name you like, it is still a control, and a reasonable control, and is effective in law enforcement.

Mr. CONYERS. I am sorry you reported that colloquy between our colleagues because this subcommittee took off from Washington, D.C. hoping we could elevate the quality of the discussion by getting out among the people, and perhaps we should have stayed on Capitol Hill more.

Thank you very much.

Mr. MURPHY. Thank you.

Mr. CONYERS. Our next witness is the former general counsel to the National Commission on the Causes and Prevention of Violence, Mr. James S. Campbell, accompanied by the new executive director of the National Council to Control Handguns, Mr. Nelson T. Shields III. The third person whose face is familiar but who we will need to identify for the record, welcome, and thank you for your prepared statement which you submitted to the committee and its membership in advance. It will be incorporated into the record at this point. That will free you to join us in a continuation of the discussion that I know has been very important to you.

[The prepared statement of Mr. Shields follows:]

STATEMENT OF NELSON T. SHIELDS, EXECUTIVE DIRECTOR, NATIONAL COUNCIL TO CONTROL HANDGUNS, ACCOMPANIED BY JAMES S. CAMPBELL, COORDINATOR, NCCH LEGISLATIVE TASK FORCE

Good morning, Chairman Conyers, Mr. McClory and members of the House Judiciary Subcommittee on Crime. I am Nelson Shields, Executive Director of the National Council to Control Handguns, and beside me is Mr. James Campbell, Coordinator of our Legislative Task Force and formerly General Counsel of the National Commission on the Causes and Prevention of Violence. Also accompanying me today are Charles J. Orasin, NCCH Assistant Director, and several members of the NCCH Legislative Task Force.

With your permission, Mr. Chairman, at this time I would like to place in the record the list of those lawyers, legal assistants and other persons serving on this legislative task force. These individuals are contributing their personal time and expertise in advising the Council on pending handgun control legislation as well as in researching suggested alternative approaches and working with interested members of Congress and their staff.

I would also like to insert, since I do believe it significant, an up-to-date listing of the NCCH Directors, Consultants and Sponsors. Since we last testified, Mr. Russell Peterson, Chairman of the 1972 National Advisory Commission on Criminal Justice Standards and Goals, has joined NCCH in a Consultant capacity. Mr. A. R. Marusi, Chairman of the Board and Chief Executive Officer of Borden, Inc., has agreed to become a Director for the Council. Mr. Marusi will act as a spokesman for NCCH and will chair our "Businessmen for Handgun Control" Committee. The distinguished Congressman from the District of Columbia, Walter Fauntroy, has also joined the NCCH Board. Now joining us as Sponsors are many respected Americans who have endorsed NCCH's "Statement on Handgun Control," such as William Ruckelshaus, Arthur Ashe and James Whitmore.

I want to thank the Chairman for inviting the National Council to Control Handguns to testify at what, I hope, will turn out to be the final session of a truly historic series of hearings. Our past Executive Director, Mr. Edward Welles, and Mr. Campbell testified before you last July 23rd. So I believe you are familiar with our position on handguns. Let me begin by briefly restating that position so that there will be no misunderstanding or confusion.

NCCH strongly supports the approach of Chairman Conyers, Congressman Ingham and Senator Hart, as represented by their nearly identical bills to restrict severely the manufacture, sale and transfer of all handguns and to allow purchase and possession of handguns only by the military, law enforcement officials, licensed security guards and licensed pistol clubs. These restrictions could be supported by a federally funded buy-back program (or a federal tax credit).

I do not call this approach a "ban" because of the four exceptions to possession—the latter two of which (licensed security guards and licensed pistol clubs) can be defined either narrowly or quite broadly. Mr. Chairman, with your permission, I would like to offer for the record at this time a recent document written by the Council. It is entitled "A Brief Case for Handgun Control." I believe it succinctly addresses the handgun control issue, examines various alternative solutions, and explains the nature and position of NCCH.

Mr. Chairman, although I would like to make some closing remarks later, right now I'd like to turn our presentation over to Mr. Campbell, who will comment on some of the legislative proposals which the Subcommittee is considering, particularly the Administration's proposal, H.R. 9022, a bill to amend the Gun Control Act of 1968.

* * * * *

STATEMENT BY MR. CAMPBELL

NCCH has not previously testified on the Administration's handgun control bill, H.R. 9022, introduced on July 29, 1975. We appreciate the opportunity to do so this morning.

H.R. 9022 contains four principal features. Three of these features may be fairly described as tightening up certain provisions of the Gun Control Act of 1968.

First, the Administration acknowledges, in the testimony of Justice Department official Ronald L. Gainer before this Subcommittee on October 1, 1975, that federally-licensed firearms dealers, now numbering approximately 150,000, may presently operate in violation of the law with "little realistic chance of being detected." Accordingly, it is proposed to reduce the number of dealers by increasing dealers' fees and imposing additional licensing requirements.

Second, the Administration concedes that the Gun Control Act's prohibition on sales of handguns by dealers to felons or other persons not lawfully entitled to possess handguns "has not been enforced because it cannot be enforced." To permit enforcement of this prohibition, a fourteen-day waiting period before the handgun can be delivered by the dealer is suggested, during which the local police would have the opportunity—though not the obligation—to request an FBI "name check" on the prospective purchaser. Moreover, sales by dealers of more than one handgun to any one individual in any thirty-day period would be made unlawful.

Third, the Administration states that there is now no effective federal prohibition against a felon who possesses a firearm, nor is there any mandatory minimum sentence required for a person convicted for the first time of using a firearm to commit a federal crime. Accordingly, H.R. 9022 seeks to close both these loopholes in existing law.

The fourth feature of the Administration bill is its centerpiece—a prohibition on the domestic manufacture and sale of handguns similar to those that are presently barred from importation by Treasury Department regulations pursuant to the 1968 Gun Control Act. This is the so-called "Saturday Night Special" provision.

Before taking a closer look at this "Saturday Night Special" feature of H.R. 9022, it is worth summarizing at this time what the Administration approach does *not* do. (1) The Administration does *not* seek a licensing system under which lawful ownership of a handgun would depend on the owner's satisfying stated minimum requirements of mental competence and responsibility. (2) The Administration does *not* seek a nationwide registration system under which

handgun possession and transfer information would be collected to permit tracing of handguns used in crime and to deter owners from unlawful transfers of handguns in their possession. (3) The Administration does *not* seek to restrict private possession of handguns in particular geographic areas with the most serious violent crime problems, as Attorney General Levi had originally suggested. (4) The Administration does *not* seek to restrict the manufacture and sale of concealable handguns generally, but only certain limited types of such guns. (5) Finally, the Administration does *not* seek to reduce the existing arsenal of some 40 million pistols and revolvers now in private hands.

One or more of these five basic handgun control strategies have been proposed by responsible members of Congress, or both political parties, as necessary to stem the rising tide of handgun violence. None of these strategies is supported by the Administration. Indeed, as to some of them, the President states that he is "unalterably opposed."

Yet the President wishes to reverse the trend by which the law has "centered its attention . . . on the rights of the criminal" and instead to "put the highest priority on the victims and potential victims" of crime. He recognizes, as he must, that "criminals with handguns have played a key role in the rise of violent crime in America."

Unless we are to question the Administration's sincerity, therefore, we must conclude that the President believes that his "Saturday Night Special" bill will accomplish a substantial reduction in handgun violence. That has to be the only legitimate function of handgun control legislation at this time. Surely no responsible political leader would make a handgun control proposal that he knows isn't likely to be effective in reducing handgun violence—just to take the heat off or to give the appearance of doing something about the crime problem.

What is the Administration's "Saturday Night Special" legislation, then, and will it reduce handgun violence?

Essentially the Administration proposes to extend to domestically produced handguns a slightly modified version of the "Factoring Criteria for Weapons" adopted by the Treasury Department in 1969 for the asserted purpose of carrying out the Gun Control Act's ban on importation of firearms not "generally recognized as particularly suitable for or readily adaptable to sporting purposes." Thus handguns (1) without certain basic safety features, (2) not of a specified minimum size, or (3) lacking sufficient additional quality-related features, could not be manufactured or sold within the United States.

NCCH believes that the proponents of Saturday Night Special legislation ought to be able to provide satisfactory answers to each of at least six obvious questions raised by such legislation. The Administration answers none of these questions—indeed, it entirely ignores most of them.

Question 1. Does the definition of "Saturday Night Special" include all readily concealable handguns?

Answer. As the two recent attacks on President Ford so vividly illustrate, it is the concealability of most handguns that makes them such effective weapons in violent street crime. Yet the minimum size requirements of the Administration bill would have outlawed neither Fromme's .45, nor Moore's .38—nor, for all that appears, many other types of readily concealable handguns.

Question 2. Does the definition of "Saturday Night Special" include all handguns that are not particularly suitable for sporting purposes?

Answer. If we are willing to tolerate up to half a million handgun crimes a year (allowing for underreporting) so as not to interfere with the alleged sporting use of handguns, we ought to at least be certain that any handguns excluded from the prohibited Saturday Night Special category are of a kind intended and used for shooting-sports activities. Yet neither the original Factoring Criteria nor the Administration bill represent a serious effort to ban the non-sporting handgun.

Question 3. Does the term "Saturday Night Special," as used in the proposal, define a type of handgun especially suitable for criminal purposes?

Obviously the term "Saturday Night Special" is only an empty phrase unless there is something truly special about it so far as criminal use is concerned. But the most that can conceivably be claimed for the Special as defined in the administration bill is that in the past it may have been involved in as many as half of the handgun crimes being committed—but since half of the handguns being manufactured are claimed by the Administration to fall within its definition of a Saturday Night Special, there is nothing significant in the statistic. The unique "criminality" of the Saturday Night Special remains unproved.

Question 4. Is there any persuasive reason to believe that other types of handguns cannot be readily produced and sold as substitutes for the handguns proposed to be banned as Saturday Night Specials?

The Administration bill may well make some cheaper handguns less available—assuming that American ingenuity cannot find a way to produce non-Specials at Special prices. But what is the basis for assuming that persons bent on crime—or wrongly believing that a handgun provides effective home protection—will not be willing to pay quite a bit more for a handgun if they have to? Common sense suggests that handgun demand is relatively price-inelastic; the Administration has made no attempt to demonstrate the contrary.

Question 5. What is the basis for assuming that the handguns defined as not being Saturday Night Specials cannot be readily altered to be as concealable as the Specials?

The Administration asserts that the handguns permitted to be manufactured under its bill (i.e., the non-Specials) will be of "sufficient size to reduce the likelihood of concealability." Taking this unsupported claim at face value (and it is, as previously noted, erroneous), we must ask why these larger handguns won't be cut down by private persons to be smaller than the supposed "sufficient size." Perhaps some handguns with very large frames or other characteristics might not be readily alterable; or perhaps alteration is a manageable problem in any event. But the Administration never even discusses this obvious question.

Question 6. What will be the effect of the proposed "Saturday Night Special" ban on overall handgun availability?

Answer. In testimony before this Subcommittee the Justice Department representative, Ronald L. Gainer, referred with apparent approval to studies indicating that a given reduction in "handgun density" can be expected to reduce homicide rates by an even greater factor. Yet he was forced to admit that under the Administration bill the handgun population would increase by over one million handguns per year—even assuming (contrary to fact) no substitution of more expensive weapons for the prohibited Saturday Night Specials.

To sum up, Saturday Night Special legislation of the kind proposed by the Administration, or of the kind that passed the Senate in 1972, has not been shown to be likely to reduce handgun violence. It is not, as Senator Javits aptly said a couple of months ago, "strong or meaningful." All that it would accomplish, so far as the record before us can demonstrate, is to insulate some of the established U.S. handgun manufacturers from troublesome price competition. From the standpoint of those persons committed to meaningful handgun control legislation, the Administration's Saturday Night Special bill is a disaster. It leads away from effective handgun control, not toward it; it is the illusion of control, not the reality.

NCCH therefore opposes H.R. 9022, unless its Saturday Night Special provisions are deleted or replaced with meaningful criteria related to concealability.

We are particularly disappointed in H.R. 9022 because earlier this year the Administration appeared to be moving in the direction of possibly meaningful legislation to control handguns at least in metropolitan areas, where the violent crime problem is most acute. Attorney General Levi had advanced a proposal to restrict the sale, importation and possession of handguns in metropolitan areas where an acute need for handgun control has been demonstrated by an especially high level of violence. Under the Levi formula, handguns would have been controlled in 62 SMSA's, including New York City, Washington, D.C., Chicago, Baltimore, San Francisco and Los Angeles. To have a chance of being effective, however, an urban ban would have had to be linked with some system of handgun registration, in order to prevent unlawful leakage of handguns from rural to urban areas. And presumably it was the President's "unalterable" opposition to registration that resulted in the Attorney General's proposal going nowhere.

We have been encouraged to note, however, that the Attorney General's basic idea has been picked up by Senators Javits and Percy. The present Javits-Percy proposal (S. 2153) would ban handgun sale, importation or possession in metropolitan areas meeting similar criteria as under the Levi proposal. These restrictions would be removed when the violent crime rate in the affected SMSA's had dropped to 80 percent of the national rate, or to 90 percent of the national rate and 95 percent of the local rate for the preceding year. In no event, however, could the ban be dropped within less than five years after the initial determination of eligibility.

We are currently examining the Javits-Percy approach, in the hope that with various modifications it may represent a workable compromise, allowing handgun controls to operate in those areas where they are most needed and most desired by the population, while not seriously affecting possession and ownership in areas where handguns are believed to present less serious problems. We are studying, for example, a modification of the Javits-Percy bill that would ban private possession of handguns in SMSA's having core cities of at least 250,000 population and in which the rate of violent crimes is some percentage, perhaps 20 percent, above the national average. Such a proposal would, based on 1973 statistics, result in a ban in at least 26 metropolitan areas, including New York City, Washington, D.C., San Francisco, Chicago, Baltimore, Newark, and Detroit. Again, the leakage problem would have to be dealt with, and we presently see no way to avoid some form of registration, at least of new handguns, with all the practical and political problems that entails. Nonetheless, we believe that the Javits-Percy approach presents an innovative response to the problem of escalating crime in our urban areas which should be given careful consideration by the Congress.

Finally, we wish to note that our legislative task force is also reviewing the registration and licensing approach of Mr. McClory, as set forth in his comprehensive handgun control bill, H.R. 9763, introduced on September 22, 1975. We recognize that bill to be a thoughtful proposal, though NCCH has not so far supported a registration and licensing approach, for reasons we have previously stated. We do believe, however, that the approach of H.R. 9763 could perhaps assist in preventing migration of handguns from loose-control jurisdictions into areas attempting to enforce strict handgun controls, as under the Javits-Percy proposal, but we continue to hope for a more effective step forward by this Congress.

At this point I would like to submit for the record a memorandum by our legislative task force for a suggested addition to Mr. McClory's bill that would make handgun owners liable in damages to injured persons for their failure to exercise adequate care to prevent theft, loss or unlawful transfer of their weapons.

* * * * *

STATEMENT BY MR. SHIELDS

My remaining remarks today, while supported by NCCH, are my personal views—talking as a father of a son senselessly murdered with a handgun on the streets of San Francisco, the city where we almost lost another President, and as an individual who has not only seen tragedy within his own family but who himself has been assaulted with a handgun.

I'm speaking to you as a person who, some people think, has reacted to these events somewhat irrationally—giving up a management job of 26 years in industry to work unpaid for such a futile, if admittedly worthwhile, cause. My moral values have gotten in the way of his better judgment, some fear.

I don't agree. I think our society's "better judgment" in accommodating a minority of gun fanatics has gotten in the way of our moral values for far too long.

I do agree, however, that many Americans consider my cause futile. Why? Because they see the gun lobby, even though representing a small minority of Americans, as so powerful that no one can succeed in opposing them. And that is just the attitude that the National Rifle Association has orchestrated and purposely built-up over the years; an attitude of futility in the face of their all-powerful image, an image stemming from the successful intimidation of politicians and others by a fervent, vocal band of what I consider little men who need handguns to make them big.

Intimidation. You've all seen it; you've witnessed it; you've probably felt it. The public reacts with futility; the corporations and business community by withdrawing support and contributions. And how do our political leaders react? For too many years they have done likewise—they have withheld their support from what their hearts and minds told them was right: they were intimidated. And they let this nation be turned into an armed camp and the streets of its cities become war zones.

Now it's 1975. What are you going to do when the pressure of 4 million dollars of NRA intimidation hits? This intimidation will be fueled by the very few who

love their pistols and revolvers more than life itself, aided and abetted by self-centered economic interests and, tragically, by legitimate hunters who have been propagandized to believe that handgun proponents are after their rifles and shotguns. Again for the record—NCCH is *not* against rifles and shotguns, which are used legitimately for a viable social function by large numbers of American hunters. Handguns are different. Due to their concealability, they are the prime weapons in violent crime. They are not used extensively in hunting. Unlike rifles and shotguns, they are made and used primarily to kill people.

Gentlemen, I plead with you. Don't be intimidated again in 1975. Trust the good sense of the majority of the American people. Let your fundamental human values—those values that made you our leaders—come to the fore and give us a law that has a realistic chance of reducing handgun availability and our resulting violent crime rate.

And if you can't do that, if you aren't able to stand up to the NRA, then at least don't tell us that your Saturday Night Special legislation, or your bill to close a couple of loopholes in the 1968 Gun Control Act, is going to make any difference to those Americans who, like my son, are going to be dying on the streets of the cities of America. If you're not willing to stop the domestic arms race with *effective* handgun control legislation, let's not pretend that we're going to reduce violent crime.

We say we are a society that believes in the sanctity of life and the rule of law. I'd truly love to believe that, but I'm not sure I, or most Americans, are convinced. Please, make us believers again.

TESTIMONY OF NELSON T. SHIELDS, EXECUTIVE DIRECTOR, NATIONAL COUNCIL TO CONTROL HANDGUNS, ACCOMPANIED BY JAMES S. CAMPBELL, COORDINATOR, NCCH LEGISLATIVE TASK FORCE, AND FORMER GENERAL COUNSEL OF THE NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE, AND CHARLES J. ORASIN, NCCH ASSISTANT DIRECTOR

Mr. SHIELDS. Thank you, Chairman Conyers, and good morning to the Subcommittee on Crime.

I am Nelson Shields, executive director of the National Council to Control Handguns, and beside me is Mr. James Campbell, on my right, coordinator of our legislative task force, and formerly General Counsel of the National Commission on the Causes and Prevention of Violence. On my left is Charles J. Orasin, NCCH assistant director. Also accompanying me today are several members of our legal task force.

With your permission, Mr. Chairman, I would like to place in the record the list of those lawyers, legal assistants, and other persons on this legislative task force.

Mr. CONYERS. Are they here?

Mr. SHIELDS. They are here in the committee room.

Mr. CONYERS. Please identify them.

Mr. CAMPBELL. Dave O'Connor and Dave Williams in the front row. Bill Perlstein also in the front row. Bob Pope and Neal Golden in the second row behind him.

We have a number of additional members who I do not believe are present this morning. If they are, they are in the back of the room. But we have a complete list of the names of each of the persons we would like to submit for the record.

Mr. CONYERS. Is this another \$4 billion lobby group that is assembled? It sounds pretty high pressure to me.

Mr. SHIELDS. My next comment addresses itself to that. These individuals are contributing their personal time and expertise in advising the council on pending handgun control legislation as well as researching suggested alternative approaches and working with the interested Members of Congress, all on their own time without pay. There is no \$4 million involved in supporting this legislative task force.

At this time I would like to also insert, since I do believe it is significant and up to date, a listing of the national council's directors, consultants, and sponsors.

Mr. CONYERS. Without objection that will be incorporated into the testimony.

[The information referred to follows:]

BOARD OF DIRECTORS

Mr. Mark Borinsky, Chairman.

Ms. Judith Brody, Washington.

Sheriff John J. Buckley, Cambridge, Mass.

Mr. James S. Campbell, Washington, D.C.

Mr. John Carver, the Massachusetts Council on Crime and Corrections, Boston, Mass.

Dr. Paul Chodoff, Washington, D.C.

Mr. Robert DiGrazia, police commissioner, Boston, Mass.

Hon. Walter Fauntroy, Member of Congress, District of Columbia.

Mrs. Enrico Fermi, Civil Disarmament Committee for Handgun Control, Chicago, Ill.

Hon. Michael J. Harrington, U.S. House of Representatives.

Mrs. Dee Helfgott, Coalition for Handgun Control, Los Angeles, Calif.

Ralph H. Metcalfe, U.S. House of Representatives.

Hon. Abner Mikva, U.S. House of Representatives.

Ms. Ellen Morgenstern, Arlington, Va.

Mr. A. R. Marusi, chairman and chief executive officer of Borden, Inc.

Mr. Patrick V. Murphy, former police commissioner, New York City.

Mrs. Lillian Potter, Handgun Alert Inc., Providence, R.I.

Mr. Nelson T. Shields, executive director.

Mrs. Susan Sullivan, the Committee for Handgun Control, Inc., Chicago, Ill.

Mr. Dwite Walker, Citizens United to Save Lives, Detroit, Mich.

Ms. Michaela Walsh, New York City.

Mr. Edward O. Welles, Washington, D.C.

Mr. Jerry Wilson, former police chief, Washington, D.C.

Mr. Ronald Wolk, vice president, Brown University.

CONSULTANTS TO THE BOARD

Dr. Milton Eisenhower, Chairman of the Presidential Commission on the Causes and Prevention of Violence.

Mr. Lloyd Cutler, Executive Director of the Eisenhower Commission.

Mr. Russell Peterson, Chairman of the National Advisory Commission on Criminal Justice Standards and Goals.

SPONSORS

Saul Arrington, Arthur Ashe, Robert Ashmore, Iphraim Gornberg, Nelson Goodman, Hon. Maynard Jackson, Harry J. Lehman, Ian H. Lennox, Patricia Locke, Milton Rector, William D. Ruckelshaus, George Newton, Dave Toma, Hon. Cyrus Vance, and James Whitmore.

NCCH LEGISLATIVE TASK FORCE

Nancy Altman, Dave Cynamon, Jerry Donovan, Paul McElligott, Doug Melamed, Dave O'Connor, Bill Peristeln, Bob Pope, Ted Sims, Dale Smith, Terry Winslow, and Neal Golden.

NCCH: Nelson T. Shields, Edward O. Welles, Charles J. Orasin, Mark Borinsky, and Ellen Morgenstern.

Coordinator of NCCH Legislative Task Force: James S. Campbell.

Principal legislative advisors: Maurice Rosenblatt, Catherine Hill, National Counsel Associates.

Mr. SHIELDS. Thank you, Mr. Chairman.

Since we last testified, Mr. Russell Peterson, chairman of the 1972 National Advisory Commission on Criminal Justice Standards and Goals, has joined NCCH in a consultant capacity. In addition, Mr. A. R. Marusi, chairman of the board, and chief executive officer of the Borden Co. has agreed to become a director for the council. Mr. Marusi will act as a spokesman for NCCH and will chair our Businessmen for Handgun Control Committee. The distinguished Congressman from the District of Columbia, Walter Fauntroy, has also joined the NCCH board. Now joining us as sponsors are many respected Americans who have endorsed NCCH's statement on handgun control, such as William Ruckelshaus, Arthur Ashe, and James Whitmore.

I want to thank the chairman for inviting the National Council to Control Handguns to testify at what, I hope, will turn out to be the final session of a truly historic series of hearings. Our past executive director, Mr. Edward Welles, and Mr. Campbell testified before you last July 23. So, I believe you are familiar with our position on handguns. Let me begin by briefly restating that position so that there will be no misunderstanding or confusion.

NCCH strongly supports the approach of Chairman Conyers, Congressman Bingham, and Senator Hart, as represented by their nearly identical bills to restrict severely the manufacture, sale, and transfer of all handguns and to allow purchase and possession of handguns only by the military, law enforcement officials, licensed security guards, and licensed pistol clubs. These restrictions would be supported by a federally funded buy-back program or a Federal tax credit.

You may note, I do not call this approach a ban because of the four exceptions to possession—the latter two of which, licensed security guards and licensed pistol clubs, can be defined either narrowly or quite broadly. Mr. Chairman, with your permission, I would like to offer for the record at this time, a recent document written by the council. It is entitled, "A Brief Case for Handgun Control." I believe it succinctly addresses the handgun control issue, examines various alternative solutions, and explains the nature and position of NCCH.

Mr. CONYERS. Why do you not distribute those to members? Do you have copies?

Mr. ORASIN. We just have a few copies now.

Mr. CONYERS. Let us take it under advisement as to what our ultimate disposition will be; but I would urge that you see each of the subcommittee receives that.

Mr. GEKAS. Mr. Chairman, do they have extra copies of the second list that they submitted for the record?

I would like to see it now, if I might.

I have the legislative task force I, and then there is an additional one.

Mr. CAMPBELL. Yes; we have copies of that. Could we submit that to the council?

Mr. GEKAS. If you do not have extra ones, we can Xerox them.

[The information referred to follows:]

A BRIEF CASE FOR HANDGUN CONTROL AND DOING SOMETHING ABOUT IT NOW

(By the National Council to Control Handguns)

CONTENTS

- I. Violence in America.
- II. Firearms—Especially Handguns.
- III. Handguns and the Law.
- IV. What Has Prevented Enactment of Effective Handgun Control Legislation?
- V. Alternative Approaches Under Consideration.
- VI. NCCH's Position.
- VII. NCCH—Its Goals, Organization, and Needs.

We are all generally aware of the frightening escalation of crime and violence in America over the last two decades.

Few of us, however, know specific facts about it—its scope, its magnitude, its characteristics, its causes—much less how or what can be done about it. This is despite the fact that five national commissions¹ have studied the problem in the last ten years and published their convincing findings.

Although the causes of violence were found to be many, complex and not easily dealt with, these five commissions found almost uniformly that the vast and increasingly availability of handguns was a major contributing factor and recommended strong control of handguns as an essential first step in the reduction of crime and violence.

To this end, The National Council to Control Handguns (NCCH) was formed in 1974 by citizens who agreed action on these recommendations was both necessary and long overdue. NCCH is a non-profit citizens' lobby working in Washington, exclusively for the enactment of effective handgun control legislation. As a national lobby, NCCH also serves as the umbrella organization and information clearinghouse for the many regional handgun control groups. NCCH is actively engaged in the formation of additional groups throughout the country.

With its legislative experience and scholarly and legal expertise, NCCH has established credibility and an effective working relationship with the Congress and the Administration. Dr. Milton Eisenhower, Chairman of the National Commission on the Causes and Prevention of Violence, is a Consultant to the Board; said Board also includes members of his Violence Commission staff as well as several large city Chiefs of Police and dedicated citizens.

Outlined below are some key facts about our violent society, the handgun problem, alternative solutions, our legislative facts of life and NCCH itself. By no means is this an exhaustive treatment. Rather, it is a summary to acquaint you with the subject and NCCH, and to encourage you to join us in actively working for constructive and effective solutions.

I. VIOLENCE IN AMERICA

FBI statistics show violent crime in America continuing to grow at ever increasing rates with a 17 percent increase in 1974. Preliminary estimates for 1974 and our long term trends are:

	Thousands of crimes	Rate per 100,000 population	Percent increase in rate since 1961
Homicide.....	20	10	106
Aggravated assault ¹	430	215	153
Robbery ¹	410	206	255

¹ Assault and robbery statistics are considered low due to underreporting of these crimes. Rape has not been included here due to severe underreporting.

¹ 1965: Commission on Law Enforcement and Administration of Justice. Nicholas deB. Katzenbach, Chairman.

1967: National Advisory Commission on Civil Disorders. Otto Kerner, Chairman.

1968: National Commission on the Causes and Prevention of Violence. Dr. Milton Eisenhower, Chairman.

1971: National Commission on the Reform of Federal Criminal Laws. Edmund G. Brown, Chairman.

1972: The National Advisory Commission on Criminal Justice Standards and Goals. Russell W. Peterson, Chairman.

This amounts to one homicide every 27 minutes, plus an assault and a robbery every minute!

To put our homicide rate in perspective: During the peak years of the Vietnam War (1966-72), 42,300 U.S. military personnel were killed in combat, resulting in major unrest in America. Yet in those same years, 103,000 civilians were murdered in the U.S. At current homicide rates, we would murder approximately 140,000 people in seven years. At 1972 homicide rates, which were significantly less than today's, a child born in Atlanta would have 1 chance in 28 of being murdered; in Washington, D.C., 1 chance in 40; in New York City, 1 chance in 67!

U.S. homicide rates, in total, with firearms in general and especially with handguns, far exceed those of any other developed country.

Our highest crime rates occur in large urban centers, although recent trends show higher rates of increase in our suburban and rural areas.

While injury and death are, of course, the worst consequences of this violence, the fear that is pervading our country is a tremendous, if unmeasurable, consequence.

Obviously, the fundamental causes for this story of American violence are many and complex. Not the least are probably the melting pot nature of our young society, our rapid industrialization, urbanization and economic growth, our frontier heritage and our ingrained value structure which puts individuals rights and freedom equal to or above society's rights.

Whichever are the primary causes none are subject to easy or rapid solution, so let's turn to what is considered by the five national commissions as a prime catalyst of this violence.

II. FIREARMS—AND ESPECIALLY HANDGUNS

First, note that the U.S. population of firearms in civilian hands is estimated at over 135 million with at least 40 million being handguns.

Also, that approximately 2.5 million new handguns were sold into the private sector of this country in 1974—a figure that has been increasing steadily at a far greater rate than population growth for many years.

Handgun ownership in the U.S. far exceeds that of any other developed country. The latest international handgun ownership estimates available are for 1968, at which time the U.S. estimate was 13,500 per 100,000 population. The next highest country was Canada with 3,000, while most other countries surveyed were below 500.

Though based on limited data, there appears to be a direct correlation between developed countries' handgun ownership rates and their homicide rates.

Long guns (rifles and shotguns) are generally used legitimately by the estimated 20 million hunters in the U.S., and involved in only a minor proportion of violent crime.

In contrast, handguns, because of their ease of concealment, are a far more serious factor in crime. In 1973, handguns accounted for 53 percent of all homicides and 80 percent of all firearm homicides. In 1967, the latest year for which figures are available, handguns accounted for 86 percent of all firearm assaults and 96 percent of all armed robberies.

Handguns are five times more effective in causing death than knives, the next most frequent weapon used in homicides.

Handguns account for over 70 percent of all murders of police officers.

Excluding rape, much of which is unreported, 1974 violent crimes with handguns are estimated at:

Homicides	11,000
Aggravated assaults	over 100,000
Robberies	over 175,000

In addition, latest figures show there are approximately 4,000 handgun suicides and 3,000 handgun accidental deaths per year.

Although the increase in violent crime and the resulting increase in public fear has obviously generated much of the increase in handgun ownership, the element of surprise in most criminal acts negates the effectiveness of handguns as a defensive weapon.

In fact, studies show that the presence of a loaded handgun in the home is five to six times more likely to kill or injure a family member or friend than an intruding felon.

With respect to murder, the statistics clearly indicate people should fear their friends and family more than the unknown criminal as over 70 percent of mur-

ders are committed by family members or friends rather than by suspected or known felons.

As Judge George Edwards of the 6th Circuit Court of Appeals puts it, "Most murder in real life comes from a compounding of anger, passion, intoxication and accidents—with the victims being wives, husbands, girl friends, boy friends, prior friends or close acquaintances. A loaded handgun, alcohol and passion in the same home are a time bomb."

III. HANDGUNS AND THE LAW

The United States is the only major country without effective national handgun control laws even though we have some 20,000 city and state handgun statutes.

Of 102 foreign countries surveyed in 1968, 29 European, 15 North and South American, 21 Asian and 25 African countries required national licensing and/or registration to possess or carry any firearm. Five European, two Asian and three African countries prohibit the possession of handguns.

Existing Federal Law:

Prohibits the sale of "gangster-type" weapons (machine guns, bazookas, sawed-off shotguns, etc.).

Requires all dealers in firearms or ammunition to be federally licensed (for \$10) and to keep records of all sales.

Prohibits interstate mail-order sale of all firearms and ammunition and sale of handguns to known non-residents of state.

Prohibits the sale of all firearms and ammunition to a list of known undesirables—i.e. felons, drug addicts, mental defectives, etc.

Sets minimum purchase age requirements: 18 for long guns, 21 for handguns.

Prohibits the importation of all "non-sporting" handguns, but not their parts.

NOTE.—This law, along with its many other loopholes, allows most citizens to buy and own handguns; including criminals by theft or simple illegal purchase.

State laws in this country are many and varied but mostly ineffective due to (1) lack of uniformity, (2) the permissiveness of their requirements, and (3) the lack of ability or desire to enforce.

Only four states (Hawaii, New York, New Jersey and Massachusetts) have reasonably restrictive handgun laws, but even their effectiveness is negated by the ease with which handguns can be brought in from other states with far less restrictive laws.

In effect for reasons of political expediency; commercial economics; lack of enforcement funds, commitment, and leadership; plus a ponderous, overloaded criminal justice system, we do not have effective handgun control on either a national or state basis in this country.

IV. WHAT HAS PREVENTED ENACTMENT OF EFFECTIVE HANDGUN CONTROL LEGISLATION CONSIDERING THAT PUBLIC OPINION POLLS TAKEN EVER SINCE THE LATE '30'S CONSISTENTLY SHOW OVER TWO-THIRDS OF AMERICANS WANT SOME FORM OF NATIONAL GUN CONTROL?

A confused and divided public has been a major factor in not achieving effective gun control of any type. The public is aware of the growing criminal violence and in general the part guns play in it—but they are confused. Their desire for personal safety conflicts with uncertainty in how best to achieve it—via gun laws, criminal laws, more police protection or through (fictitious) personal protection by owning their own guns.

A major division of thinking and life style exists between our rural and urban populations which pits the perceived private rights and freedoms of our smaller, rural population against the societal rights and fears of our larger urban populations.

The politically strong rural areas, until recently not feeling seriously threatened by violent crime, assume handgun control will eventually mean control of all guns—long and short; and will threaten their most rural pastime, hunting.

Urbanites see their right to life, safety and freedom from fear as overriding minor inconveniences and the ineffective freedom to defend one's property with a handgun. They see the handgun as having only one effective use—the pre-meditative killing or threatening of human life.

Opposing any and all types of effective gun control legislation, national or state, for any type gun, is the so-called Gun Lobby, whose spokesman historically has been the powerful, well-financed National Rifle Association (NRA).

The absence of an effective lobby to work and speak for strong handgun control, and to answer the arguments of the NRA has been a major deficiency in the past. NCCH exists to fill this void.

V. ALTERNATE APPROACHES UNDER CONSIDERATION

The Total Handgun Ban approach includes:

Turning off the "spigot," that is making illegal the manufacture, importation, sale, transfer of all handguns and handgun ammunition except to the military, police, licensed security guards and licensed pistol clubs.

Positive action to reduce the millions of handguns already in circulation by instituting a buy-back program (except for deactivated antiques and the above mentioned exceptions) for six months during which time individuals would receive appropriate reimbursement for handguns turned in to the government.

After this period, the use, ownership or possession of handguns would be illegal except for the specially licensed groups above.

Neither its legislative supporters nor NCCH believe the buy-back provision would instantly rid the country of handguns, but with the spigot turned off, possession illegal and the buy-back provision, this bill would immediately start making inroads and reduce the handgun population significantly over the years.

Yes, some criminals would continue to have handguns, but fewer as time passes. Law enforcement officers would continue to be armed.

This approach is considered by its opponents to be an abridgement of certain individual rights—i.e. to bear arms, to defend oneself and one's property by any means, to indulge in any sport or pastime, even to the detriment of others in society. Contrary arguments by its supporters are:

"The Right to Keep and Bear Arms": As stated in the American Bar Association's report to their House of Delegates at their 1975 convention:

"There is probably less agreement, more misinformation, and less understanding of the right to keep and bear arms than on any other current controversial constitutional issue. The crux of the controversy is the construction of the Second Amendment to the Constitution, which reads: 'A well-regulated militia, being necessary to the security of a free State, the right to keep and bear arms, shall not be infringed.'

"In addition to the five decisions in which the Supreme Court has construed the Amendment, every Federal court decision involving the Amendment has given the Amendment a collective, militia interpretation and/or held that firearms control laws enacted under a state's police power are constitutional. Thus arguments premised upon the Federal Second Amendment, or the similar provisions in the thirty-seven state constitutions, have never prevented regulation of firearms."

The "Right to Self-Defense," from a practical standpoint, is not abridged by this approach. It has been clearly shown that a handgun in the home is not only not an effective defensive weapon, but in fact is itself a greater risk to family members than a felon's arms. Self-defense is far better left to other security means, especially the police.

What about the right to hunt and target shoot? Handgun control should in no way abridge a true hunter's rights, as few, if any, knowledgeable, honest hunter considers a handgun an effective hunting weapon. Only long guns (rifles and shotguns) are effective hunting firearms, and no approach being seriously considered by anyone supports elimination of long guns which have a valid sporting and wildlife control use in our society.

Handgun target shooting is a minor sport in this country which could be practiced at strictly licensed pistol clubs. In any event, we seriously question whether this right warrants the death and injury from not controlling handguns.

Three potential drawbacks seem to exist with this approach. One would be the cost of the buy-back program. No one can accurately forecast its cost, but probably it could run over a billion dollars if all handguns were turned in. However, this certainly is small relative to the total economic cost of violent crime and would be a one time expense rather than a continuing and ever escalating one.

Another drawback is the practical reality that not all our currently legitimate handgun owners will turn in their handguns. If this is true to any significant degree, the Total Ban approach would effectively criminalize that part of

society. Ipso facto, make previously law abiding citizens into criminals in the eyes of the law. This concern might be overcome by making possession a misdemeanor instead of a felony at least for an initial time period.

The problem of search and seizure traditionally has been an obstacle to general acceptance of a total ban on possession. This is identical to the problem of recovering any illegal article—i.e. individual rights are guaranteed by the Constitution under the due process clause and would have to be strictly adhered to for handguns like anything else.

The "Turn Off the Spigot" approach would ban handgun manufacture and sale as in the total ban approach but would not prohibit possession.

This approach depends on attrition to reduce the existing handgun population. Such attrition would primarily be confined to criminals' handguns as they are arrested for handgun crimes, but with the millions in circulation to be stolen or illegally transferred, it would be a relatively slow reduction over time. In all probability, a widespread black market in handguns would develop, but certainly they would be harder to get than at present. This approach could be reinforced by supplemental state laws banning or restricting possession.

This type legislation would be a valuable incremental step in the right direction.

The "Ban Saturday Night Specials" approach, both turns off the spigot and bans possession, but only of a specific narrow segment of handguns, frequently quoted as being the primary criminal weapons. Definitions of Saturday Night Specials vary widely; from design criteria only effecting the quality or safety of the weapon, to size criteria effecting concealability. Currently, the Treasury Department's size criteria for non-sporting handguns is any gun with an overall height less than 4" and length less than 6".

Again, this could be a potentially positive incremental step if the banned segment is defined broadly enough. If not, it could be illusory as criminals merely move up the scale as required. Many see this approach as merely a smoke screen by certain firearms manufacturers, who want to define Saturday Night Specials in such a way as to eliminate cheap competition only.

Most licensing and registration proposals now being considered include what is called permissive licensing, which would allow most citizens a license to possess a handgun and only exclude convicted criminals, drug addicts and mental defectives, etc. The registration feature would serve to identify a certain handgun with a specific licensed individual, thus only being useful for after-the-crime tracing purposes.

These proposals would not only leave all existing handguns in circulation but allow continued replenishment. Admittedly, the excluded groups would not be allowed to possess handguns, which is slightly better than existing law which only prohibits purchase by members of these groups when known to the seller. To achieve this modest improvement would require setting up federal or state bureaucracies similar to current state automotive bureaucracies, but worst of all, would in effect officially legalize and perpetuate an armed American society.

NCCH does not consider permissive licensing sufficiently beneficial to offset its inherent cost and the admission that America must be an armed camp against itself.

Certain foreign countries, however, have what is called restrictive licensing. In contrast to permissive licensing, this defines by specific criteria a minority who can be licensed, rather than a minority who cannot be.

In its extreme state, this form of licensing approaches a complete ban on possession except for military, police, security guards, etc. Its drawback is the political impracticality of nationally defining a very restrictive class of licensees and subsequently maintaining such restrictiveness in the face of future legislative requests for exceptions.

"Put More Criminals behind Bars" approach: The probability of a criminal in the United States going to jail for committing a given crime is low—less than one offense in twenty results in prison for the perpetrator.

It is tempting to argue that simply apprehending, convicting and imprisoning more criminals is the simple, effective and quick answer to reducing crime. But the reasons for our low conviction rate are varied, involving inadequacies in our entire criminal justice system and the means of achieving such goals involve far more than simply getting tough with criminals. Crime has risen in spite of substantial increases in expenditures for police; in 1972 less than half of the reported violent crimes resulted in an arrest. While the size of

the judiciary increased 25% in the past ten years, the case load has doubled. Consequently, 90% of all serious crimes are cleared by plea bargaining—a time saving procedure that generally involves pleading guilty to reduced charges. To achieve a modest 10% reduction in the percentage of cases settled by plea bargaining would require doubling the trial load. With the police and judiciary so overburdened it's not surprising that citizens do not even bother to report the majority of crimes to the police.

While recent major efforts and substantial funding to improve our criminal justice system have not been overly successful, efforts at improvement certainly must continue. Meanwhile, the causal relationship between the availability of handguns and the incidence of violent crime remains and efforts to control handguns must be an essential aspect of the effort to reduce crime.

Administration approaches

After putting forth several trial balloons plus, some personal viewpoints on the issue, the Administration has now released an official proposal.

President Ford has twice stated his personal aversion to national licensing and registration and his preference for merely strengthening or extending enforcement of existing law. In addition he called for stiffer criminal penalties and mandatory sentences for all crimes committed with firearms.

Attorney General Levi publicly explored the idea of a geographically selective law which either banned possession of handguns or imposed restrictive licensing only in high crime metropolitan areas, and not in the remainder of the country. This idea is not included in the Administration's official proposal.

The official Administration proposal includes:

(1) Ban on the importation, domestic manufacture, assembly, and sale of the cheap, concealable handguns known as "Saturday Night Specials," as defined by the Department of Treasury factoring system used on imports.

(2) Tightening of existing laws concerning qualification for firearm dealer licenses.

(3) A waiting period of 14 days for the purchase of handguns so that firearms dealers and law enforcement officers can make FBI name checks on purchasers.

(4) A variety of criminal and administrative provisions directed at controlling the interstate commerce in handguns. One significant provision would outlaw multiple purchases of handguns.

Combination proposal

A new proposal combining features of several others has been introduced in the Senate. Its key features are:

(1) Banning with proper exceptions the manufacture, importation, sale and possession of all handguns in high crime metropolitan areas triggered by a "crime rate index" mechanism.

(2) Banning the manufacture, importation, sale and possession of a broad class (less than 10' barrel length) of Saturday Night Specials nationally.

(3) Except to law enforcement officials, restrict the retail sale of handguns to one per person per year.

(4) Strengthen existing licensing standards and controls on manufacturers and dealers.

(5) Require verification of personal identification data on all prospective firearms purchasers.

A major concern with this proposal is the legal and practical ability of imposing geographically selective controls and the reliability of criteria for their selection.

By confining its most restrictive feature only to the high crime urban centers, this proposal seems to attack the heart of our violent crime problem, for the common good of both our urban citizen and our very mobile national citizenry. At the same time national prohibition of the most easily concealed, transported and least legitimately useful weapon seems necessary, along with stronger manufacturing, importation and dealership controls, to make the urban center restrictions work.

Ideally federal legislation would be limited to interstate matters plus those matters necessary to allow our potentially diverse state laws to work without adversely affecting or being affected by conflicting laws of other states. If the improved dealership controls were such as to reduce the current 157,000 to a manageable number plus limit their presence to close proximity to the restricted high crime areas, this proposal could contribute significantly to the effectiveness of individual state laws.

VI. NCCH'S POSITION

NCCH agrees with the previously noted Commissions that the unregulated availability of vast numbers of handguns in civilian hands is a primary catalyst to violent crime, but not in and of itself the fundamental cause. Likewise, we are not naive enough to believe that achieving effective handgun control will instantly and automatically end all violent crime. The fundamental causes are too deeply rooted in much more complex issues of criminal justice, juvenile delinquency and socioeconomic factors to which our society has not yet found solutions.

We do believe, however, that society cannot wait for such broad social progress to reduce the tragic rate of criminal death and injury, and that action is needed and possible now. Significantly reducing or eliminating the availability of deadly handguns in civilian hands is the only means we know for significantly reducing violent crime rapidly. NCCH thus supports and is actively lobbying for strict legislative controls on the manufacture, importation, sale, transfer and civilian possession of handguns except for law enforcement officers, licensed security guards and specially licensed pistol clubs.

NCCH considers most proposals to-date to have some merit. Each, however, also has its drawbacks and/or limitations either in potential effectiveness, effects on legitimate society, or in the area of practical politics. Realistically, we consider achieving a total handgun ban in the 94th Congress a long shot—for the very reason that it would be the most effective and thus, erroneously, the most threatening to legitimate gun owners and thus our politicians. It is perceived as asking too much from the legitimate citizen in exchange for a hoped for reduction in crime. We strongly believe, however, that prospects are good for constructive legislation in the 94th Congress that will be a positive step in this direction.

Even though NCCH supports federal handgun control legislation, we do not believe all social problems must be or are best solved by federal legislation. We support the federal legislation approach because we have found no other that promises to achieve the effectiveness and the speed of implementation necessary.

We continue to investigate and evaluate alternatives but in the meantime, speed means lives, and with both Congress and the Administration considering specific legislative approaches our primary effort will remain support of federal legislation to effectively control handguns. The deadly, efficient handgun has no effective purpose in society other than to kill people. Thus, in a society that believes in the sanctity of life and the rule of law, it has no place other than for duly authorized and licensed law enforcement agencies.

VII. NCCH—ITS GOALS, ORGANIZATION AND NEEDS

Our aim is to mobilize, strengthen and channel the already existing majority public support for handgun control into effective legislative action.

Our lobbying efforts include active participation in the formulation of handgun control legislation; education and persuasion of key, swing legislators; the encouragement of major multi-issue public service organizations to join the drive for effective legislation; and the mobilization of a concerned public to make their desire for effective legislation known.

Though a majority of individuals support some form of handgun control, this support is not yet cohesively organized and focused. By contrast, the NRA is established, well known, well financed and is single minded in its leadership and policy. Even though we see potentially effective proposals coming out of this Congress and the need for concerted short range supporting efforts by NCCH, we believe this issue will not be truly resolved soon and there will be a need for NCCH for some years.

NCCH's Washington organization consists of almost 100% volunteer supporters of handgun control. We have a full time Executive Director and assistant, plus many part-time lobbyists, lawyers, program coordinators, and secretaries working out of our office.

Our Board is still being developed but currently includes three past or present Chiefs of Police, three Congressmen, five Presidents of independent regional handgun control groups, plus several knowledgeable professional or business leaders.

Dr. Milton S. Eisenhower and Lloyd Cutler, the Executive Director of Dr. Eisenhower's Presidential Commission on the Causes and Prevention of Violence, are Consultants to the Board. Two staff members of Dr. Eisenhower's Commission are on our Board. Our growing list of sponsors includes national and com-

munity leaders, scholars and knowledgeable professionals from our criminal justice system.

A full listing of NCCH's Board, Executive Committee and Sponsors is attached.

Though our Washington staff and volunteer organization will continue to be improved, a primary organizational need is the coalescing of the many independent regional handgun control groups into an effective coordinated force.

Besides serving as a national umbrella organization for all such existing groups, we act as a national information clearinghouse, publish a bi-weekly national newsletter covering all groups' activities, host national meetings and generally attempt to promote cooperation. Beyond these activities, there is no official or legal relationship between the groups. In addition to these existing groups, NCCH is actively pursuing the establishment of additional affiliate groups throughout the country. A dedicated, coordinated grassroots organization is a must if we are to succeed in this effort.

To date NCCH has depended on its founders' limited personal resources plus modest income from direct-mail and media solicitations. In the long run, when direct mail can be expanded significantly, membership dues should make us self-supporting.

In the meantime, major seed money will be required both to fund the next four months intensive lobbying and public education needs, and to cover initial front-end costs of expanding our direct mail membership solicitation campaign. Our minimum estimate of immediate 1975 needs is \$100,000. (Our detailed budget is available on request.)

We hope this summary of the handgun problem, its potential solutions, and NCCH itself has been both informative and educational, and that it motivates you to actively support our efforts, both philosophically and with your resources of time, money and effort.

We welcome requests for more information or a meeting at any time with any of the Executive Committee listed below:

Mark Borinsky
James Campbell
Ellen Morgenstern

Nelson T. Shields
Edward O. Welles

NCCH's CURRENT BOARD, CONSULTANTS AND SPONSORS

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Mr. SHIELDS. Mr. Chairman, although I would like to make some closing remarks myself, right now I would like to turn our presentation over to Mr. Campbell, who will comment on some of the legislative proposals which the subcommittee is considering, particularly the administration's proposal, H.R. 9022, a bill to amend the Gun Control Act of 1968.

Mr. CONYERS. Fine.

Mr. CAMPBELL. Mr. Chairman, we appreciate the opportunity to give testimony this morning on H.R. 9022, the administration's handgun control bill. We have not previously offered testimony on that legislation. Our prepared statement summarizes the principal provisions of that bill, many of which can, I think, fairly be described as efforts to tighten up somewhat the 1968 Gun Control Act and close certain particularly glaring loopholes in it. I will not repeat that portion of my prepared testimony.

The centerpiece of the administration's bill, however, is its so-called Saturday night special provision, and this is the provision I would like to address myself to particularly this morning. Before I do that, however, I think it is important to note what the administration's bill does not do. The administration, in its proposal, does not seek a licensing system under which lawful ownership of a handgun would depend on the owner's satisfying stated minimum requirements of mental competence and responsibility.

The administration does not seek a nationwide registration system under which handgun possession and transfer information would be collected to permit tracing of handguns used in crime and to deter owners from unlawful transfers of handguns in their possession.

The administration does not seek to restrict private possession of handguns in particular geographic areas with the most serious violent crime problems, as Attorney General Levi had originally suggested.

The administration does not seek to restrict the manufacture and sale of concealable handguns generally, but only certain limited types of such guns.

Finally, the administration does not seek to reduce the existing arsenal of some 40 million pistols and revolvers now in private hands.

One or more of these five basic handgun control strategies have been proposed by responsible Members of the Congress, of both political parties, as necessary to stem the rising tide of handgun violence. None of these strategies is supported by the administration. Indeed, as to some of them, the President states that he is unalterably opposed.

Mr. CONYERS. Excuse me. The lights indicate there is a recorded vote proceeding on the floor of the Congress. Accordingly, we will recess until this vote has been recorded.

[A brief recess was taken.]

Mr. CONYERS. The subcommittee will come to order. We will proceed with your testimony.

Mr. CAMPBELL. Thank you, Mr. Chairman.

I had just gotten to the point of asking what is the administration's Saturday night special legislation, and will it reduce handgun violence? Essentially, the administration proposes to extend to domestically produced handguns a slightly modified version of the factoring criteria for weapons adopted by the Treasury Department in 1969, for the asserted purpose of carrying out the Gun Control Act's ban on importation of firearms not generally recognized as particularly suitable for or readily adaptable to sporting purposes. Thus, handguns without certain basic safety features, not of a specified minimum size, or lacking sufficient additional quality-related features, could not be manufactured or sold in the United States.

We believe that the proponents of Saturday night special legislation ought to be able to provide satisfactory answers to each and every one of the six obvious questions raised by such legislation. The administration, so far as we have been able to ascertain by examining the material submitted to this subcommittee and materials made available in various briefings, the administration answers none of these questions. Indeed, it entirely ignores most of them.

Question No. 1, does the definition of Saturday night special include all readily concealable handguns? As the two recent attacks on President Ford so vividly illustrate, it is the concealability of most handguns that makes them such effective weapons in violent street crime. Yet the minimum size requirements of the administration bill would apparently have outlawed neither Fromme's .45, nor Moore's .38 nor, for all that appears, many other types of readily concealable handguns.

Question No. 2, does the definition of Saturday night special include all handguns that are not particularly suitable for sporting purposes? If we are willing to tolerate up to half a million handgun crimes a year, allowing for underreporting, so as not to interfere with the alleged sporting use of handguns, we ought to at least be certain that any handguns excluded from the prohibited Saturday night special category are of a kind intended and used for shooting-sports activities. Yet, as Prof. Frank Zimmering has demonstrated, neither the original factoring criteria nor the administration bill represent a serious effort to ban the nonsporting handgun.

Question No. 3, does the term Saturday night special, as used in the proposal, define a type of handgun especially suitable for criminal purposes? Obviously the term Saturday night special is only an empty phrase unless there is something truly special about it so far as criminal use is concerned. But the most that can conceivably be claimed for the Saturday night special as defined in the administration bill is that in the past it may have been involved in as many as half of the handgun crimes being committed, but since half of the handguns being manufactured are claimed by the administration to fall within its definition of a Saturday night special, there is nothing significant in the statistic. The unique criminality of the Saturday night special, as opposed to other concealable handguns, remains unproved.

Is there any persuasive reason to believe that other types of handguns cannot be readily produced and sold as substitutes for the hand-

guns proposed to be banned as Saturday night specials? The administration bill may well make some cheaper handguns less available, assuming that American ingenuity cannot find a way to produce non-specials at special prices. But what is the basis for assuming that persons bent on crime, or wrongly believing that a handgun provides effective home protection, will not be willing to pay quite a bit more for a handgun if they have to? Common sense suggests that handgun demand is relatively price-inelastic in the economist's terms; the administration has made no attempt to demonstrate the contrary.

Question No. 5, what is the basis for assuming that the handguns defined as not being Saturday night specials cannot be readily altered to be as concealable as the specials? The administration asserts that the handguns permitted to be manufactured under its bill, that is, the non-specials, will be of sufficient size to reduce the likelihood of concealability. Taking this unsupported claim at face value, and it is, as previously noted, erroneous, we must ask why these larger handguns will not be cut down by private persons to be smaller than the supposed sufficient size. Perhaps some handguns with very large frames or other characteristics might not be readily alterable; or perhaps alteration is a manageable problem in any event. But the administration never even discusses this obvious question.

Question No. 6, what will be the effect of the proposed Saturday night special ban on overall handgun availability, a point, Mr. Chairman, you raised with the previous witness? In testimony before this subcommittee the Justice Department representative, Ronald L. Gainer, referred with apparent approval to studies indicating that a given reduction in handgun density, which was the term he used, can be expected to reduce homicide rates by an even greater factor. Yet he was forced to admit that under the administration bill, the handgun population in this country would increase by over 1 million handguns per year, even assuming, contrary to fact, no substitution whatever of more expensive weapons for the prohibited Saturday night specials occurs.

To sum up, Saturday night special legislation of the kind proposed by the administration, or of the kind that passed the Senate in 1972 has not been shown to be likely to reduce handgun violence. It is not, as Senator Javits aptly said a couple of months ago, "strong or meaningful" legislation. All that it would accomplish, so far as the record before us can demonstrate, is to insulate some of the established U.S. handgun manufacturers from troublesome price competition. From the standpoint of those persons committed to meaningful handgun control legislation, the administration's Saturday night special bill is a disaster. It leads away from effective handgun control, not toward it; it is the illusion of control, not the reality.

We therefore must oppose H.R. 9022, unless its Saturday night special provisions are deleted or replaced with meaningful criteria related to concealability.

We are particularly disappointed in H.R. 9022 because earlier this year, the administration appeared to be moving in the direction of possibly meaningful legislation to control handguns, at least in metropolitan areas, where the violent crime problem is most acute. This, of course, was Attorney General Levi's original proposal. We have been encouraged to note that the Attorney General's basic idea has been

picked up by Senators Javits and Percy, and is currently under active study in the Senate.

We are looking at the Javits-Percy approach in the hope that with various modifications, it may represent a workable compromise, allowing handgun controls to operate in those areas where they are most needed and desired by the population, while not seriously affecting possession and ownership in areas where handguns are believed to present less serious problems.

Finally, I wish to note that our legislative task force and the rest of us are also reviewing the registration and licensing approach of Congressman McClory has set forth in his comprehensive handgun control bill, H.R. 9763, introduced on September 22, 1975. We recognize that bill to be a thoughtful proposal, though NCCJH has not so far supported a registration and licensing approach, for reasons we have previously stated. We do believe, however, that the approach of H.R. 9763 could perhaps assist in preventing migration of handguns from loose-control jurisdictions into areas attempting to enforce strict handgun controls, as under the Javits-Percy proposal, but we continue to hope for a more effective step forward by this Congress.

At this point I would like to submit for the record a memorandum prepared by our legislative task force for a suggested addition to Mr. McClory's bill that would make handgun owners liable in damages to injured persons for their failure to exercise adequate care to prevent theft, loss or unlawful transfer of their weapons.

Mr. CONYERS. Without objection, we will receive that into the record. [The material referred to follows:]

MEMORANDUM FOR THE SUBCOMMITTEE ON CRIME, HOUSE JUDICIARY COMMITTEE,
OCTOBER 9, 1975

Many of the legislative proposals, most notably Congressman McClory's bill, H.R. 9763, reflect a concern that gun control ought not needlessly require the establishment of a large federal bureaucracy to enforce restrictions on the use or sale of handguns and that handgun legislation ought to distinguish between law-abiding citizens, who can be trusted with a handgun, and those other citizens who cannot. For example, Section 925 of Congressman McClory's bill sets forth restrictions on the permissible transfers of handguns from one person to another. These restrictions are intended to prevent concealable firearms from falling into the hands of those who might abuse them. Violation of the restrictions would be a criminal offense.

But restrictions on deliberate transfers to irresponsible persons are not enough. A large number of handguns are stolen each year, and countless more are lost or misplaced. Literally thousands of these inadvertently transferred weapons are later used in crimes. Accordingly, any prohibition on the transfer of handguns must include a requirement that gun owners exercise the utmost care to prevent the transfer of their handguns by accident, loss or theft to those who would use them for unlawful purposes.

Section 925 of the McClory bill, for example, should therefore contain a new subsection that would require anyone who owns or possesses a handgun to exercise the utmost degree of care to prevent its loss or theft. This requirement would, in effect, codify and make uniform the body of judicial decisions that have held handguns to be "dangerous instrumentalities" and have accordingly imposed upon their owners a duty to take "extraordinary" measures to prevent their being misused.¹

¹ See, e.g., *Naegle v. Dollen*, 158 Neb. 373, 63 N.W. 2d 165, 167 (1954) ("highest degree" of care); *Orump v. Browning*, 110 A. 2d 695, 697 (D.C. Minn. Ct. App. 1955) ("highest degree" of care); *McAndrew v. Mularchuk*, 33 N.J. 172, 162 A. 2d 820, 826 (1960) ("extraordinary" care); *Burton v. Waller*, 502 F. 2d 1261 (5th Cir. 1974), cert. denied, 420 U.S. 964 (1975) (Mississippi law requires "highest" degree of care in handling firearms); *Underwood v. United States*, 356 F. 2d 92 (5th Cir. 1966) (Alabama law requires "high" degree of care). See generally 57 Am. Jnr. 2d, Negligence § 115 (1971); 79 Am. Jur. 2d, Weapons and Firearms §§ 36-37; § 43 (1975).

Further, anyone injured by the unlawful use of a handgun should be able to bring suit in a state or federal court of competent jurisdiction to recover damages from the owner of the gun in the event that the owner has breached his duty to exercise the utmost care to prevent loss or theft of his weapon. In such litigation, the gun owner, whose handgun has injured a victim, should have the burden of proving that he in fact exercised the utmost degree of care to prevent the transfer of his weapon. The handgun owner is more able than the victim to know and prove whether he has taken appropriate steps to keep his gun out of the hands of criminals.

In brief, we propose to draw upon the highly successful example of the Railroad Employers Liability Act (45 U.S.C. § 51), which created a federal standard of care and a federal cause of action enforceable by private damage suits in state courts. Handgun victims, like railroad employees under that Act, should be assured that the law on which they are relying will—both in the standard of care required and in the burden of proof at trial—be uniform throughout the nation.

These amendments—which would create a standard of care required of handgun owners and establish a private cause of action for victims—both will give victims of misused handguns an opportunity to be compensated for their injury and will induce gun owners to take the necessary steps to guard against the unlawful use of their weapon. The amendments will provide those benefits without the establishment of a federal bureaucracy, without the intrusion of the federal government into state and local affairs and without depriving law-abiding citizens who are concerned about preventing handgun crime of an opportunity to possess and use handguns.

Proposed addition (using H.R. 9763, as an example) :

Section 925—new subsection (j), with present subsection (j) to be renumbered (k) :

"(j) whoever owns or possesses a handgun required to be registered under this chapter shall be responsible to exercise the utmost degree of care to prevent the loss, theft, or unlawful transfer of such handgun. Any person injured by a lost, stolen, or illegally transferred handgun may bring suit in any court of competent jurisdiction against the owner of the handgun and the owner shall be liable to the injured party unless the owner proves by a preponderance of evidence that he exercised the utmost degree of care to prevent the loss, theft, or illegal transfer of the handgun."

A. DOUGLAS MELAMED,
WILLIAM J. PERLSTEIN,
Distribution Controls Group,
NCCH Legislative Task Force.

MR. CAMPBELL. I believe we have already submitted that to the committee staff.

I would now like to ask Mr. Shields to close for us, and we will be available for questions.

MR. SHIELDS. Mr. Chairman, my remaining remarks today, while supported by NCCH, are my personal views, talking as a father of a son senselessly murdered with a handgun on the streets of San Francisco, the city where we almost lost another President, and as an individual who has not only seen tragedy within his own family but who himself has been assaulted with a handgun.

I am speaking to you as a person who, some people think, has reacted to these events irrationally, giving up a management job of 26 years in industry to work unpaid for such a futile cause. My moral values have gotten in the way of my better judgment, some fear.

I do not agree. I think our society's better judgment in accommodating a minority of gun fanatics has gotten in the way of our moral values for far too long.

I do agree, however, that many Americans consider my cause futile. Why? Because they see the gun lobby, even though representing a small minority of Americans, as so powerful that no one can succeed in opposing them. And that is just the attitude that the National

Rifle Association has orchestrated and purposely built up over the years, an attitude of futility in the face of their all-powerful image, an image stemming from the successful intimidation of politicians and others by a fervent, vocal band of what I consider little men who need handguns to make them big.

Intimidation, you have all seen it; you have witnessed it; you have probably felt it. The public reacts with futility; the corporations and business community by withdrawal advesting support and contributions to causes. And how do our political leaders react? For too many years, they have done likewise, they have withheld their support from what I am sure their hearts and minds told them was right. They were intimidated. And they let this Nation be turned into an armed camp and the streets of our cities war zones.

Now it is 1975. What are you and your colleagues going to do when the pressure of \$4 million of NRA intimidation hits? This intimidation will be fueled by the very few who love their pistols and revolvers more than life itself, aided and abetted by self-centered economic interests and, tragically, by legitimate hunters who have been propagandized to believe that handgun proponents are after their rifles and shotguns, as well. Again for the record, NCCH is not against rifles and shotguns, which are used legitimately for a viable social function by a large number of American hunters. Handguns are different, however. Due to their concealability, they are the prime weapons in violent crime. They are not used extensively in hunting. Unlike rifles and shotguns, they are made and used primarily to kill people.

Gentlemen, I plead with you. Do not be intimidated again in 1975. Trust the good sense of the majority of the American people. Let your human values, those values that made you our leaders, come to the fore and give us a law that has a realistic chance of reducing handgun availability and ultimately reducing the violent crime.

And if you cannot do that, if you are not able to stand up to the NRA, then at least do not tell us that your Saturday night special legislation, or bills to close a couple of loopholes in the 1968 Gun Control Act, is going to make any difference to those Americans who, like my son, are going to be dying on the streets of the cities of America. If you are not willing to stop the domestic arms race with effective handgun control legislation, let's not pretend that we are going to reduce violent crime.

We say we are a society that believes in the sanctity of life and the rule of law. I would truly love to believe that, but I am not sure I, or many Americans, are convinced. Please, make us believers again.

Thank you, Mr. Chairman.

Mr. CONYERS. You have given us a very powerful charge as we move toward a close of these hearings. I, for one, have a deep and abiding respect for Mr. Shields, for the way you have conducted yourselves and the decisions you have made in the tragic circumstance that has been so personal to you and your family.

I think further that you represent a symbol, if I may say so, to millions of people who, through a number of processes, one of which is this subcommittee's activities over 7 months with over 200 witnesses in many cities, in every direction across this country, that have led us to at least what is, I think, obvious; a more careful and more deliberate examination of a question that has plagued us all for many years. And

whether persons agree with Nelson Shields' point of view, or John Conyers', or Bob McClory's, is not nearly as important as the fact that this dialog has taken place, I believe, on a level that exposes it to more careful examination than has gone on in the past.

For that we are grateful to you for coming before us, to your very effective counsel, Jim Campbell, and all those who have worked to not push their point of view. I choose to believe as much as to expose all of us to a more careful consideration of a very important social question.

Mr. SHIELDS. Thank you, Mr. Chairman.

Mr. CONYERS. I would like to confront you with only one question, gentlemen. I will pose it to all three of you.

I would like you to put yourselves in the position of the legislators whom you have so effectively admonished here today. Forget for the moment your positions and understand the nature of the political process as I see it. There are Members here in the Congress who, having reexamined the matter before us and are going to make a new and different departure from what they have ever made before on this subject, that I know there are other Members in our body, colleagues whom I consider friends of mine who are prepared to continue the rearguard action to fight any kind of change that would be real and not cosmetic. And it would be based on all of the various kinds of reasons that could be summed up and reviewed here.

But more importantly than either of those two groups, there is a third and growing number of Members who are sincerely trying to determine whether they should become that wave of the future, and it is not a popular position for a legislator to be advocating what may happen in x number of years from now.

What processes would you recommend to us as we now move toward markup? What attitudes would you hold out for us? We know what your position is, but can we talk about this in terms of those Members of Congress who now are going to pick up the ball and move in a variety of directions? Do you have any additional thoughts you might leave with us, given that kind of backdrop that I have described?

Mr. CAMPBELL. Mr. Chairman, one thing occurs to me and that is that this educational process which your subcommittee has spearheaded over the past 7 months is perhaps the most important part of getting an incremental step toward effective handgun control from this Congress. I think that if there were ways in which other Members of the Congress could be educated as to the issues and could separate the various subparts of this complicated issue in their own minds and get away from the kind of thing that was discussed here earlier this morning, how people think registration is the same thing as confiscation, and so on.

This wrapping the whole thing up under the heading of gun control. I think there has been a very important development in the 6 years since the Eisenhower Commission reported, in that I think the handgun in the public mind has now been identified as the villain. And I think there is a much greater public perception that those of us who are trying to do something about violent crime are not after the rifles and shotguns of the legitimate hunters, and that education—if that kind of thing can be carried forward through the discussions the Mem-

bers have with each other through circulating information. I think that would be a very important part of the process because what we really need to counter the NRA is a truth panel, in effect. If people see what the issues are here, I am satisfied there will be a step forward in this Congress. Something constructive will be done.

Mr. SHIELDS. I think you can just add to that, Mr. Chairman, that if we keep in mind, which we do not think the administration did when they proposed their H.R. 9022, that the ultimate goal is to reduce crime. And if they had asked themselves the six questions that Jim asked, which go to the question, are the features of this bill going to reduce crime, I think we have to keep the ultimate goal and criteria of what we are trying to do in mind. I agree that to get the legislative process going, we may have to come up with something that is a little less than ideal from our standpoint, at least. But we ought to admit, when we bring something up, what is it going to do. Is it going to reduce crime or is it just a step toward that which will take place at some other later date?

I think the worst thing we could do is kid ourselves and, of course, the politicians, if they go home and find out nothing has happened after they have voted for a given issue, I think that would be disastrous.

Mr. CONYERS. I said I only had one question but this does occur to me, then I will yield to Mr. Hughes.

Is there some danger in legislating factoring criteria into the law?

Mr. CAMPBELL. Yes, Mr. Chairman, I think there is a tremendous danger. I think what it does—it, in effect, puts a congressional seal of approval on concealable handguns that pass the criteria. I think it is very much the wrong approach. I use the word disaster in my testimony advisedly. I think I was caused to choose that word by having recently reread Robert Sherrill's book, "The Saturday Night Special." He described Saturday night special legislation as a total disaster. So, I did not go quite as far as he did, but he said that, I think, it is perhaps reading these three sentences, let us assume we have Saturday night special legislation of the kind the administration proposes. What is the result?

The established old line gun industry will see that as a great victory. Libertarians who believe a man should be allowed to pick his own brand of poison will see it as defeat and advocates of gun control, if they have any sense, will recognize it as a total disaster.

Mr. CONYERS. I yield to my colleague from New Jersey.

Mr. HUGHES. Thank you, Mr. Chairman, and thank you, gentlemen, particularly Mr. Shields. Your statement is extremely moving, particularly because of your personal tragedy. I understand your point of view, although I do not totally agree with the motives in which you attribute some of the legislation that is before the Congress. I think Mr. McClory's legislation, for instance, dealing with registration extended tracing and plugging loopholes is a well-intentioned piece of legislation, well balanced and tries to direct the problem realistically.

Mr. CAMPBELL. We do not disagree with that at all.

Mr. HUGHES. I have a basic problem on the ban on the handguns. I have asked the same question time and time again. We have—given the fact we have a lot of people in this country that believe in the cities in particular, they need a handgun for their protection. The lit-

the corner grocer, who feels that the only thing between him and salvation is the handgun, is not going to turn over the handgun whether Congress passes a law or not banning the possession of handguns.

Are we to make felons out of the people in this country that legitimately feel they have a right to possess a handgun?

Mr. CAMPBELL. Mr. Hughes, in the case of the corner grocer, when we talk about licensed security guards we do not mean to include only the larger businesses which are able to hire the professional full-time security guard. We would assume the businessman——

Mr. HUGHES. You would expand that to include the corner grocer?

Mr. CAMPBELL. Assuming he was properly trained.

Mr. HUGHES. There are people in this country, believe it or not, that think they have a constitutional right to possess a handgun. Otherwise, law-abiding citizens who are not going to surrender the handgun, what are we going to do to them? Are we going to make them felons—otherwise law-abiding citizens?

Mr. CAMPBELL. In the cities there are some people who would feel that way perhaps, but, as you know from the polls, the overwhelming majority—better than 2 to 1—of the residents of our larger cities would like to see the handgun totally banned. To be sure, there are some who do not feel that way and you have correctly put your finger, I think, on one of the most difficult aspects of a proposal entirely to ban the handgun with the exceptions we have noted. And we do not want to criminalize large portions of the population. I believe we had this discussion last time.

To a considerable degree, it gets down to a prediction as to how people are going to react to a national decision to do away with the private possession of these weapons. It is our judgment and other people may feel differently, but it is our judgment that there will be a high degree of compliance with this law, as there are with most of the laws that are reasoned, contemporarily passed sensible laws. And as people see this law working, and as they realize that their rifles and shotguns are not threatened, and if they wish to play the part which the NRA so often dramatizes of the armed householder ready to shoot the intruder, then we think people will give them up.

Mr. HUGHES. The practices of the NRA are outrageous. There is no other word for it. They are outrageous—the emotionalism they trigger. Let me just spell something out. The NRA has put no more pressure on me than your organization has. I am a new Member of Congress and if I am fortunate enough to be here next year, wonderful; if not, so may it be. I have legitimate concerns. There are a lot of people in this Congress who would have legitimate concerns about banning handguns. It is not because of the NRA pressure or some of the outrageous things that they try to sensationalize.

I have been well aware of the feelings of the people in my district. I have a rural district. I have a lot of hunters in my district. Unfortunately, many of them do attach a great deal of emotionalism to the possession of that handgun. I know if we ban handguns, we would make felons out of a lot of otherwise decent, law-abiding citizens. Whether you call it the lack of education insofar as the need for a handgun as being a misplaced form of security; whether you base it upon misconception as to basic constitutional rights of people who

possess handguns; I do not care what basis you place it upon, you still have to consider the effectiveness of such a ban.

The chairman hits upon another aspect of it. I want effective, not cosmetic, handgun control legislation. A ban on handguns in this Congress is totally unrealistic. We have had people in here, Members of Congress in here that want to pass out machineguns. That is the other extreme. Then those that want to ban—I think the other—that is just not palatable, not salable as to try to pick up all handguns.

Mr. CAMPBELL. If I may comment on that? We fully respect your position on this and the position of other legislators. You are the ones who are on the firing line on this issue. You have to make the judgments. We do not, we have to try and eliminate—generate a little heat on occasion. We respect the judgments the legislators have to make.

The one thing I would say, however, is I would like to put in a plea to you and the other members, if you cannot, for whatever reasons, support at this time a broader ban on handguns, then please do not fall back all the way to something like H.R. 9022, which is not likely to—that was the administration bill. Can we not do something which shows more promise of affecting violent crime than legislation of that kind? If we want to open the dialog on what is possible, which we would like to participate in that dialog, let us talk about something that has a chance of being effective.

Mr. HUGHES. You were not here when the administration was in and testified on behalf of their bill. But that does not even reach the stage of being cosmetic. To me, that is just a total outrage to submit that and call it handgun control legislation.

Anyway, there are many Members of Congress who are deeply concerned about the problem and it is not as simplistic as it is often painted. It is going to require a well-balanced approach. Those that argue our judiciary has not measured up to its responsibility are right. The plea bargaining—and I am an old broken down prosecutor—the plea bargaining is an outrage to me. It is an outrage. I am totally upset by the manner in which our assignment judges and our courts are basing the sentencing upon statistics. We do not have the room, get rid of the cases. We do not want anything over 6 months. Do what you have to do but you only have a week of trial, Mr. Prosecutor, to get rid of the cases.

The parole system needs reexamination. That is one aspect of the problem. Tracing has to be extended, in my judgment. I am going to vote against any appropriations for the Alcohol, Tobacco, and Firearms Section because I think it is just ridiculous for us to be pumping money into the 1968 gun control law the way it is. It has got so many loopholes, it is ineffective. If we do not beef it up and make it an effective piece of legislation, I am not going to support it. I think it is a waste of taxpayers' money.

I was appalled at some of the things I learned that the ATF is doing. They are back in the dark ages when it comes to some of their administrative practices. The fact that we have people selling firearms out of drugstores and bars, there is no wonder we cannot police that. Obviously, we have to reexamine that aspect of it. It seems to me there is a legitimate interest in law enforcement to be able to trace and identify weapons. To me it is a deterrent and it is also a great tool and an aid to law enforcement people.

There is a lot of things we can do to make it an effective piece of legislation and sell it to our colleagues, which is going to be a big job.

Thank you, Mr. Chairman.

Mr. CONYERS. We turn now to our ranking minority member, the gentleman from Illinois, Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

I do not think I want to impose any question. I want to associate myself in general with the remarks of the gentleman from New Jersey and except, of course, his references to this administration and reflections on it; and also to his statement about being a broken down old prosecutor.

I would like to commend the witnesses this morning. I do not agree with all they have said, but I think they have moderated—they presented a more realistic testimony here this morning than they did at an earlier time.

I appreciate their statements with respect to the bill that I introduced and for their modification of an earlier reference to registration of handguns.

I note that Mrs. Susan Sullivan, who is here from Illinois, and associating herself with this general organization and other persons whom I have an acquaintanceship with. And I think we are now coming to the point where we are adjusting our position, trying to get at the goal of reducing the incidence of crime which results from the handgun.

If we can, as my colleague from New Jersey states, adopt some comprehensive legislation which will not adversely affect the rights or interests or positions of the law-abiding citizen, whether he or she be owner or possessor of a long gun or a handgun, and can improve the method by which we apprehend, detect the criminal misuse of handguns and get the cooperation of the gun owners in support of this legislation—I might say I do not find the National Rifle Association has nearly the influence that they are credited with having.

I find, too, that a number of my constituents—I also have a constituency that devotes a lot of time and attention to hunting and fishing and sports and that sort of thing. They appreciate this business of having their firearms, but I find a great many who express themselves in support of the approach, the realistic approach, which my colleague from New Jersey has indicated he would support, and which I support, and which I hope this committee can up with, notwithstanding their NRA membership, that the gun owners and sportsmen will back this approach to legislative package, help us to close up the loopholes, to try to get at the weapons that are most frequently used in connection with commission of crime in our large cities, to help us to identify and trace guns that are used in the commission of crimes, and to use that facility for assisting in the prosecution of crime, to make the penalties tough with respect to those who commit crimes with guns.

Those are some of the objectives that I hope we can spell out and fulfill through legislative language here.

I appreciate your testimony and your participation, your support. Do not, however, if you want to help this legislation, do not call this just a first step toward confiscating all the guns in the country or anything like that, because, in the first place, that is not my attitude. I do not think it is Mr. Hughes' attitude.

Mr. HUGHES. I can assure you it is not.

Mr. McCLORY. I do not think that is going to be the position of the Congress. And if you mislead people, they are liable to misinterpret arguments.

I think that is all I have at this time.

Thank you.

Mr. CONYERS. I turn the questioning over to the gentleman from Ohio, Mr. Ashbrook.

Mr. ASHBROOK. Just to get, maybe, a little balance in it, or at least another point of view, let me say that I recognize it as such a serious subject, I would almost find it humorous were it not such a serious subject, to see this continual effort to create—they are the bad guys and we are the good guys.

I think you have got a great amount of emotionalism and you have got a great amount of unsubstantiated charges in your testimony. You refer to a minority of gun fanatics, people who have been propagandized. You talk about the intimidation of politicians, just like you were the good people, everybody else is the bad.

Just for the record, there is at least one member that gets a little tired of that approach.

Let me just ask you, there are 535 Members of Congress, who has been intimidated?

Would you mind telling me who has been intimidated?

You throw that successful intimidation of politicians around so easily, tell me who has been intimidated.

Mr. SHIELDS. I was referring there to the history of the 1930, 1960 and early acts. In fact, I think Congressman Murphy had some statements in his testimony earlier this morning referring to the type of activity that the NRA approved and did not approve.

Mr. ASHBROOK. On that point, do you consider their activity bad and your activity good, from what you're saying?

Mr. SHIELDS. I consider we're trying to develop some thoughtful approaches, analyzing, and I have not seen any proposal from them other than status quo at all.

Mr. CAMPBELL. I think that the thing we particularly object to about certain activities of the NRA is the mischaracterization of the positions taken by groups such as ours and the suggestion, for example, that those who are trying to do something effective about handgun control, are in favor of disarming policemen. There was testimony which was elicited from a representative of the NRA here only about a week ago bringing out the fact mailings were made, money was being raised on the basis of a questionnaire that stated, in effect, that the proponents of handgun control, persons in this subcommittee who would like to do something about effective handgun control, wished to take weapons away from policemen. That's not a fair tactic.

Mr. ASHBROOK. I would say it's not a fair tactic to imply that anyone who does not agree with you has been intimidated. Mr. Hughes properly pointed that out. I think that's an affront to the Congress to come in here and imply, unless we go along with you, it's a continuation of successful intimidation of politicians. That's a fraud. Let's call it specifically what it is. That's a total fraud.

If you want to point the finger at them and say they've done that, and that's bad, let's clean our own house up. To come in here and tell

us if we don't go along with you, we're intimidated, insults us, and I find it offensive.

Mr. CAMPBELL. I don't believe that was the intent of our testimony.

Mr. ASHBROOK. You say we would be accommodating a minority of gun fanatics. You talk about a successful intimidation of politicians. You talk about people who have been propagandized. Good night, if you're talking about emotionalism, that's about the worst stripe I've seen.

I don't question your right to, but if you want to start pointing a finger, let's turn a finger back to you and say that is propaganda of the worst possible type, from my point of view. You can testify to anything you want, but I certainly do not like to be stigmatized as a person who is accommodating a minority of gun fanatics, part of a successful intimidation of politicians.

You can carry on that approach, but let's let the record show that not all of us fall for the idea that you're the good guys and the others are the bad guys. I think you're both good. I think it's very legitimate to come in here. But I find it rather insulting to take the approach, in effect, if we don't go along with you or if we don't agree with that, we're a part of this terrible, terrible lobby in the country.

I think the record should at least show, to the extent there is propaganda, there's propaganda on both sides. I think we ought to be at least honest about it.

Mr. CAMPBELL. It would not be our intention to suggest every member who is opposed to our position on handgun control or who wishes, for example, to repeal the 1968 act, has been intimidated by the NRA. That's not our intention at all. Those views are undoubtedly sincerely held aside from any intimidation by a number of members. The situation we're referring to is the one I'm sure you're familiar with as well where members would say in private that they agree with a position like ours or a position short of ours, they are in favor of an effective handgun control, but say that because of the NRA's ability to generate mail, its ability to stimulate a minority—and I note that the representative of the NRA who was up here made reference to the organizing efforts they are getting going in districts—it's this kind of thing that I think—

Mr. ASHBROOK. You don't know of anybody who's made the opposite statement? Who, in private, made the statement that they really favor private ownership of guns but that in his own particular area, because he lives in a city, he has to go along with the other. You're saying it's all one-sided? Nobody has ever indicated to you the other side of the coin? I have heard it.

Mr. CAMPBELL. That may well be the case. I'm sure it probably is. I think on balance, however, there are many of our leaders who feel unusually reluctant to vote their consciences on this issue.

Mr. ASHBROOK. Getting to your own specific testimony, I wasn't quite certain—on page 15, you said the NCCU has not so far supported a registration and licensing approach. Is that accurate? You're against licensing and registration?

Mr. CAMPBELL. The statement we wish to leave here is that we have not so far supported such an approach. We have not, on the other hand, opposed it.

Mr. ASHBROOK. How do you tie that into your statement on page 2 that you strongly support the approach of Chairman Conyers, Congressman Bingham, and Senator Hart? Congressman Bingham appeared here for outright confiscation. He believes handguns, as I understand his position—I always try to be careful because I think all of us suffer from the same thing: We don't really recognize our position when it's explained by someone else sometimes—but as I recall his testimony and his bill, the thrust of which was to make virtually illegal the private ownership of firearms. Are you saying you're for that?

Mr. CAMPBELL. Yes. We are for that.

Mr. ASHBROOK. You're not for registration, but you are for, in effect, taking handguns away from all Americans.

Mr. CAMPBELL. We are in favor of restricting the private possession of handguns under the categories we have enumerated.

Mr. ASHBROOK. In other words, taking away those millions of handguns that are in the hands of nonpolice, non-security-related, non-specified Americans?

Mr. CAMPBELL. That's correct. That's our position.

Mr. ASHBROOK. I thought you—over on pages 2 and 3, you went over it rather gingerly because I thought that's what it meant. But to read it in context, it almost sounds like you do not really advocate that.

Also, I noticed among the six points that you made, none of those six criteria in any way addressed themselves to the problems of crime and the criminal. Not one of your six criteria.

Mr. CAMPBELL. You're referring here, Congressman, to our six questions about the Saturday night special?

Mr. ASHBROOK. You, in effect, said that—you use that as a framework of looking at legislation. You're scanning the administration's proposal on the basis of these six questions you raise, none of which, as I read them, relate at all to the concept—

As a matter of fact, I'd say listening to the testimony, of you two gentlemen, you don't even come to grips with the crime problem in the country.

Take number two of your six. You say if we are willing to tolerate up to half a million handgun crimes a year, allowing for under-reporting, so as not to interfere with the sporting use of handguns. Somebody a little more objective, I might say, could change it and say if we are willing to tolerate a half a million handgun crimes a year so as not to interfere with the reported constitutional rights in established criminals. You don't even mention crime or criminals or the problem of criminals in your approach to handgun ownership in the country.

I find that rather striking, that none of your testimony in any way addresses itself to the problem of crime, the criminal and who is committing the crimes.

Mr. CAMPBELL. I think we've tried to enter this dialog at perhaps a rather later point. In our earlier testimony, we discussed the relationship between handgun concealability and handgun availability and violent crime. And I would think that after 7 months of the hearings you have had, your record is fairly complete with evidence establishing the not particularly surprising point that ready availability

of handguns is a contributing factor in the amount of crime problem we have in this country. So we really frankly took that as a given, so that in question No. 1, when we discuss concealability, we assume that is particularly the concealable handgun, that is, all those handguns on that board of up there that are involved particularly in street crimes such as robbery. It's not the rifle or shotgun that the robber can use to intimidate a woman and snatch her purse.

The last question relating to handgun availability—there's correlation, let's say, between the influx of handguns in Detroit as a result of the riots and the tripling of handgun homicides that occurred in that area after that time.

Mr. ASHBROOK. NCCH, is it in favor of or on record in favor of supporting stiffer penalties and/or nonrevocable, nonparolable, set-aside penalties for the use of a firearm in a felony?

Mr. CAMPBELL. Yes; we are. As soon as we say that, however, we think it's important to point out that legislation which so provides is not in our view adequate. If that's all it did, it would not be an adequate and effective response to the handgun violence problem we presently face.

Mr. ASHBROOK. That's a fair position. I recognize one side uses that as the major thrust. The other side uses it as an ancillary, but not the main thrust of their legislation. I'm glad to at least have that for the record.

You consider yourself a lobby group, do you not?

Mr. CAMPBELL. That's correct.

Mr. SHIELDS. Yes; and I am a registered lobbyist.

Mr. CONYERS. Counsel Gekas.

Mr. GEKAS. Just a couple of questions to clarify what the effect of the administration's bill would be.

You talked about the guns that were used in the assassination attempts. The second of the two was a .38 with standard 3-inch barrel. That would have been prohibited had the administration's bill been in effect on domestically manufactured guns. It was a domestically manufactured .38 caliber revolver with a standard 3-inch barrel, and that would be prohibited under the administration bill. Right?

Mr. CAMPBELL. That's not our understanding. We may well be in error on this.

It was my understanding that of the three guns that were involved in those two attempts, none of them would have been reached by the administration bill. If I made an error on that with respect to the second gun, I would certainly stand corrected.

Mr. GEKAS. When I read your testimony yesterday evening about the second gun, I checked the .38 that Moore used. I checked the gun's measurement. It had a standard 3-inch barrel which is a .38 special with the standard 3-inch. The administration's factoring criteria prohibits the manufacturing of revolvers with less than 4-inch barrels. So I think it's clear that gun would have been prohibited.

Mr. CONYERS. If counsel will yield, that's part of the factoring criteria. That's not the exclusive—

Mr. GEKAS. It is exclusive. Under the administration's, Mr. Chairman, any revolver manufactured with less than the 4-inch barrel is absolutely prohibited, notwithstanding the fact that it may have all these other devices on it.

Mr. CONYERS. You missed my point. It might come within the prescribed length but still fail on the other factoring criteria. That's not exclusive.

Mr. GEKAS. I think it is exclusive. The bill would operate on the gun only insofar as its barrel length is less than 4 inches. If the barrel length of a revolver is less than 4 inches, the other tests are never even applied.

Mr. CONYERS. Right. But after you meet that test, it could be disqualified for failure to meet other factoring criteria.

Mr. GEKAS. That's correct.

Mr. CONYERS. The question then turns on whether the gun under discussion met or failed the remainder of the factoring criteria.

Mr. GEKAS. We never reached that question, Mr. Chairman, because the gun's barrel length was less than 4 inches, sir. It never would have been tested. It flunked the test outright, merely on the barrel length.

Mr. CAMPBELL. Mr. Chairman, if I can ask a question of counsel here. I gather what you're saying is one of the prerequisites under the administration bill is a 4-inch barrel for a revolver, and this gun would not have met that. I take it is correct that under the existing factoring criteria, the prerequisite is a 3-inch barrel.

Mr. GEKAS. That's right. Under the existing factoring criteria. But, of course, under the proposals on Saturday night specials before this committee have the 3-inch test, they've all been increased to 4 inches. So under all the tests before this committee, the Moore .38 special with the 3-inch barrel would have been prohibited from manufacture. Had that been in effect, that gun never would have been made, let alone sold. So it would have had the beneficial effect of at least preventing the manufacture of that particular weapon.

Another way to test the factoring criteria is to look in the past to see if we have had a factoring criteria, and if we have, where was it applied and what was its effect. The Bureau of Alcohol, Tobacco, and Firearms has furnished us with a chart that shows the effect of the factoring criteria that was developed out of the 1968 law for imported weapons. And the year before the 1968 law went into effect, there were 1,155,000 handguns imported into the United States. After the factoring criteria went into effect, there were 406,000. And the number of guns imported each successive year since that act has never exceeded 500,000. The highest was 438,000.

Mr. CAMPBELL. Does that chart also show what has happened to domestic handgun production?

Mr. GEKAS. It doesn't. There was indeed an increase in domestic handguns because the domestic market replaced a foreign market. It's very clear that we're testing the effect of the 1968 act and the 1968 factoring criteria, which is at least the basis of the administration's bill, that it had an effect. It stopped over 500,000 guns coming into the country. That seems to me to be very clear. And in its effect, if it's the position of NCOH that the number of guns should be reduced to zero, any increment down to zero, it would seem you would support—

That's why I'm somewhat puzzled that you oppose the administration's bill which can be expected, from prior experience, to reduce the number of private guns manufactured.

Mr. CAMPBELL. I don't think that conclusion follows from the data. I take it you're having 21½ million handguns produced and sold annually at the present time. It's not at all clear to me that the application of the factoring criteria to the imports has affected an overall reduction in handgun production.

Mr. GEKAS. What it suggests is we should expand that test to domestic guns, and prior experience would suggest there would be a similar reduction.

Mr. CAMPBELL. I don't think we have any experience on that. That's the thing I really asked the question about. I put this in terms of a question.

I would have supposed that a proponent of "Saturday night special" legislation would have some evidence indicating that there will not be one for one substitution of slightly larger, slightly better quality weapons than the ones that are prohibited. I frankly have reviewed the testimony that was given by the Justice Department representative before this committee and tried to stay alert to this. We have not seen any evidence of that kind.

It would seem to me to reflect on the dynamics of the gun purchase that that's a fairly important purchase for some people, and they will pay a little more if they have to.

Mr. GEKAS. You do have to examine the character of the traffic in commerce of firearms to determine whether or not people are going to be buying more expensive substitute weapons. The subcommittee has received testimony from ATF that there is a large commerce in very cheap "Saturday night specials" into the large cities and that they account for a large, very high percentage, half, 70 percent, more than half in New York City, of guns used in crime. The facts that this subcommittee has received are similar. Gunrunners go to South Carolina, buy a lot, 100 guns at \$10 apiece, go to New York City where the guns cannot be purchased, and sell them at a substantial profit. So increasing the price of guns via a factoring criteria method or a taxation method or whatever is going to make a substantial inroad into that commerce because the profiteering; the profitability of gunrunning will be reduced. Don't you agree?

Mr. CAMPBELL. Not necessarily. It might well be that the higher priced model would have a higher profit margin. I don't think we can draw from those historical facts to a prediction as to what's going to happen in this market if the price goes up.

It's probably true that if you were to increase the price of water, say, to people's homes, they'll still continue to buy it. It may well be this is one of those goods that the criminal who wishes to come into a robbery will continue to purchase. It means that his initial investment, which he will have to recover through his unlawful activities, will now be slightly higher.

The question remains to be demonstrated.

I note with interest that Congressman McClory's bill provides for a \$25 excise tax on, as I understand it, all handguns. It may well be that that may have an effect. One would assume, perhaps, that a larger excise tax would have a greater effect, and at some point, you would start to see a falling off in the demand for and purchase of handguns.

But again, there's no evidence to suggest that the guns eliminated

by the administration's bill are not going to be replaced, as I say, one for one, for all that appears on the record.

Mr. GEKAS. So what we have to do then, we have to discard prior experience. And we have our own predilections as to what a particular proposal would do, and you discard prior experience as to price and importation factoring criteria and say it's irrelevant.

Mr. CAMPBELL. I don't discard it. I take it into account. I assume for many people, if they can get a cheaper handgun, they will buy the cheaper one. That doesn't prove that if they can only get a more expensive handgun, then they won't buy the more expensive handguns.

As I say, American ingenuity can't keep the prices down of the "Saturday night special" plus one to within the range of the current gun traffic.

Mr. GEKAS. The reason is that people want their guns and they're going to pay the extra money.

Mr. CAMPBELL. I assume criminals who wish to commit street crimes, for example, or people who believe a handgun is necessary for home protection, will be desirous of obtaining those weapons. If the handguns were unavailable, the criminal would have to turn to a less deadly weapon, and the homeowner would, if he wished to engage in this fantasy of self-protection of the home, he could presumably use a rifle or shotgun.

Mr. GEKAS. Thank you.

Mr. CONYERS. Gentlemen, you have testified again vary effectively. On behalf of our organization, we are grateful to Mr. Nelson Shields, attorney James Campbell, and Mr. Orasin for joining us this morning.

Mr. CAMPBELL. Thank you, Mr. Chairman.

Mr. CONYERS. The final witness for the morning is the director of the Washington office of the American Civil Liberties Union, attorney Charles Morgan, Jr., well-known as a counsel who has appeared before a number of committees in the Congress. He has testified on several constitutional and legislative questions.

We appreciate very much that he could join us today.

We know that it was not without some intrusion on his schedule. We are delighted that he is here as our concluding witness, and we invite him to proceed in his own way.

TESTIMONY OF CHARLES T. MORGAN, DIRECTOR, WASHINGTON OFFICE, AMERICAN CIVIL LIBERTIES UNION

Mr. MORGAN. Congressman, I have no prepared statement. I read a considerable portion of the prepared testimony this morning, including Mr. Gainer's testimony from the Department of Justice. I have some preparatory remarks, introductory remarks to make.

First, this testimony at the time the President of the United States has been confronted on two occasions with handguns. He has taken a position that he intends to go back out and shake hands and "press flesh," as Lyndon Johnson would have stated. You are asked to legislate in that time for that particular problem.

I have heard Southern politicians, county and otherwise, describe the shaking of hands. One of them described it to me as the dog-smelling theory of politics, to press flesh. Everybody looks at everybody.

They either like you or do not like you, and then you move on. I am sure the President of the United States, moving through the crowds he moves through does not learn very much.

There is a great difference between bravery and bravado.

I think the President of the United States has expressed himself with bravado, but not with bravery.

Congressman Ashbrook asked Mr. Gainer questions about registration and licensing and the records that are kept. I was intrigued by that because I agree with the Congressman. What the administration's and Congressman McClory's bills—and I question nobody's motives, not even those of the National Rifle Association, for they have as much right to be around here as anybody else—call for is a whole new set of Federal records.

Congressman Hughes talks of those records as aids to investigative techniques, and that they are. As are Internal Revenue Service records. As are CIA records. FBI records. Records that George Gordon Liddy had access to through the Alcohol, Tobacco and Firearms unit. Records that John Caulfield had access to.

I have not one doubt, even if I am in agreement with the National Rifle Association, that that kind of a record-keeping procedure is the first step to eventual confiscation under one administration or another.

My position is a flat position. I am in favor of the abolition of handguns. On the factoring criteria, I would take all those guns sitting over there on the table and look at them, and I would see only one that could not be concealed in a lady's handbag under current styles. They are rather large, you know. A hippy's knapsack or——

Mr. CONYERS. Let the record show that some of the women are concealing their handbags.

Mr. ASHBROOK. I do not like to break the train of thought, but you said, I. Are you talking about yourself, or are you talking about the statement for the position of your organization?

Mr. MORGAN. The American Civil Liberties Union position would be for the abolition of handguns. I meant both in that instance. I would be apart from the American Civil Liberties Union's probable position with respect to long guns. As a matter of fact, I personally would make just about certain everybody in the country had a long gun in order to protect themselves against Government and its three branches.

Now, with respect to those guns over there, I look at them and I say under either Congressman McClory's legislation or the Administration's proposal, the folks who can carry concealed weapons in this country are going to be confined to ladies with large handbags and lawyers with briefcases and Congressmen with briefcases.

The whole world we live in is being turned into kind of a military society. I left an airport this morning about 6:00. I got up at 4:30 so that we all could have the privilege of being with each other this morning, and I went to the airport where immediately I was searched. Then I got through that airport and I went to another airport where I made the mistake of getting a haircut, and at that airport I was searched again, and I got all through and I went on to the airplane, and I got on the plane and came here, came in the building, where I was searched again. If I go into the Supreme Court, I walk through a search machine before I get there. It either beeps or it does not. The

buckles on my boots happened to set off the beeper. I have walked through such machines barefooted and otherwise but I know one thing, the bills we are talking about here deal in fiction.

First of all, the "solution" I see in these pieces of legislation, is "make it a high-priced gun." That is crazy. But it is the same approach we have to oil prices, of course. Rich folks can drive at will. The poor folks will not drive so much.

A poor fellow has the same rights to defend himself as a rich person in this country, but this legislation will make it possible for Nelson Rockefeller to purchase a handgun if he wants to, but the attendant at the Exxon service station will not be able to.

The comment was made about mom and pop stores. Congressman Hughes, you stated they feel that their handgun is the only protection they have. In many instances, they are right. But I do not agree with you that your constituents, or any other large group of Americans, would not comply with the law. One of the functions—

Mr. HUGHES. I gather we had some disagreements.

Mr. MORGAN. That is a major area of our disagreement. You contend that your constituents would be made felons by a piece of legislation because your constituents would not comply with the law. I do not believe that of your constituents or other American citizens. I believe they would comply with the law, just as I believe most of them do.

But these raise-the-price-of-handguns-as-high-as-heroin solutions will solve nothing. Under those pieces of legislation, we are going to be darn certain that the Godfather, Mr. Corleone, whether played by Marlon Brando or not, will have a handgun. His chauffeur will have a harder time buying one.

Let us talk about the factoring criteria and the questions and the forms.

One of the forms I was reading this morning, (the Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, Firearms' Transaction Record, Part I, Intrastate Over the Counter, ATF Form 4473-PT1 (6-74)) asks a group of questions that certainly will help us control firearms in this country and cut down crime.

Let me give you two of them.

Figure your answers.

"Are you a fugitive from justice?" "Sure, I am." Everybody would answer that. Anybody who is a fugitive from justice would certainly say, "certainly."

Here is another one. It sounds like an insurance question. "Are you an unlawful user of, or addicted to, marihuana or a depressant stimulant or narcotic drug?" "No." "I take a drink every now and then, but no."

Or, take subquestion G, "are you an alien illegally in the United States?" "Why, certainly, I am sir; that is why I have applied for a gun."

What you have before you are pieces of product safety legislation. The word, "cosmetic approach," was used. This would be sort of like the Congress legislating on cosmetics. Revlon will have a certain color and shade. Apparently, the aim of this legislation is to make the guns safe. Somebody commented a while ago that one of these little guns blew up in somebody's face—well, if it was a criminal I guess that is

one way to get rid of him. Half the legislation seems aimed at making folks good shots, making sure the guns go off and shoot straight.

My approach is simplistic. I find that to be a great virtue in Congress. I have only been in Washington for 3 years, but I know an area where only simple answers can work, but as far as the administration's legislation is concerned, if the Attorney General had been Moses, he would have written the Ten Commandments with three exceptions and a savings clause. Some things in this world are simple and the answers to the gun-control problem is abolish handguns.

Pay folks for them. Get them all back. Except the citizens to abide by the law. They abide by the law far better than their government does, far better than their government officials do.

A comment was made about plea-bargaining. I certainly would not exclude the Congress from the term "plea-bargaining." Over the period of the last year or two we have witnessed that.

What this legislation says is Richard Nixon can have a handgun; John Mitchell cannot. It says rich folks can have handguns and poor folks cannot. They can have them as long as the gun is 10 inches or less. Why do we not raise that criteria up to about 20 or 25 inches?

That is all.

Mr. CONYERS. I am very delighted that you were determined to get up at 4:30 this morning to join us. I appreciate it very much. In the course of the study of 150 pieces of legislation that are before us, it has been stated, and I am prepared to concede it at this point because I have a feeling many of the members of Congress are getting down to the more serious aspects of what we are going to do. I disagree with the premise that it is unrealistic to attempt to remove handguns from our society. I do not think we are up against that kind of either or proposition for the simple reason that all of the ban bills have stated exceptions. Some are more numerous than others, so the question, counsel, revolves around what we are to do and how are we to get there under the limitations you described and under the practical and political considerations that are around that we will have to deal with.

Mr. MORGAN. Let us take the most practical consideration. Let us go to the administration bill. It says there will be an FBI check. I do not know of any place in the law which establishes "an FBI check." Some of us are interested in doing away with all those records the FBI has ever there. Lots of citizens are requesting them back, paying a dime a page for that garbage.

This piece of legislation assumes that the collection of that matter is appropriate and proper conduct for a government.

A second thing it assumes—and Congressman McClory's bill would do it on a State basis and put more control at the State level—it assumes that when an American citizen goes out and purchases a gun, that information will not go into a central computer. Mr. Gainer said that is not going to happen, but in fact, it already happens with respect to the tracing of firearms to the primary seller. Yet, it would go all the way down to any seller. All of the problems the National Rifle Association and others talk about with respect to registration exist under these two pieces of legislation.

As far as practical matters are concerned. Let us take the factoring provisions, the ones in the Congressman's bill and the ones in the administration bill. They are like multiple choice questions. A grade

of 85 in one piece of legislation is passing, and it is a high grade. But if you get a D. In practical terms, think of what we are going to do with 500 new alcohol, tobacco and firearms agents scattered throughout 11 cities in the United States of America. That is about all we need after Watergate, is another 500 clowns wandering loose amongst the people to check on firearms.

I think these are the preeminently practical considerations. It is preeminently practical that folks are going to get killed by handguns—husbands, wives, others. They are going to shoot themselves. Little old ladies who play like Gary Cooper, in "High Noon," carrying guns around in their purses.

As I recall, the last time I looked at the figures, about 13 percent of the gun homicides in the United States were from long guns, 7 shotguns, and rifles.

It seems to me the preeminently practical position is that you either get rid of handguns or you do not, and you do not try to pass the palliative legislation I see offered. But, we live in a society here in Washington where folks do not take strong positions anymore. Compromise has become a redeeming social virtue. Folks get up in Washington; they look out the window and say, "It's a pretty day, who can I compromise with today?"

"About what?"

"I do not know." Compromise is not a redeeming social virtue; it should be something you do when you have to do it.

This legislation does not meet the needs of the country. I think it would be impractical to pass any legislation other than that which you have offered.

Mr. CONYERS. There is another bill that is not before the subcommittee but will undoubtedly creep into the discussion, and that deals with the notion of restricting gun sales around the standard metropolitan statistical areas, which are euphemistically referred to as the high crime areas. I think that ought to be commented upon by you.

Mr. MORGAN. As you know, I am from the South. I have read through the figures now with respect to Greenville, S.C., that one county, just one county picked out there. It sells a lot of guns that wind up in New York. I noticed an experiment, I believe it was Baltimore, in the newspapers not too long ago where they were going to buy all the guns in Baltimore.

I see the Law Enforcement Assistance Administration doing the same thing with respect to police departments in the United States that the Central Intelligence Agency has done with respect to police departments abroad, special forces training, camps, the centralization of police authority, the use of the police in this country to suppress liberty.

When I see someone come along and say that the LEAA has a project in Baltimore to keep out handguns, I know that is as absurd as the questions I read you from the questionnaire. You cannot do it that way.

On the other hand, I do not think you are going to abolish all handguns, or that some folks are not going to have handguns, or that some folks are not going to get killed with handguns.

The founders of this country knew that there was going to be crime. They wrote the fourth amendment despite that. They wrote the eighth amendment to let folks out on bail despite that. They

wrote the fifth amendment, saying, you cannot be forced to incriminate yourself, despite that.

In our society, we accept some crime. But if you had gone into ghetto areas, such as in Detroit or Chicago or Atlanta or Birmingham, you would have found that several years ago. While many talked of police brutality as the major issue in the ghetto areas. It was not a major issue. It ranked fourth. The major problem with respect to the police, was we "cannot get a policeman." "We do not have any protection." When you think of crimes of violence, 9 out of 10 of them are committed in ghetto areas, dweller against dweller, not out in the suburbs or places where white folks are, so much of the talk about practicality and reality, is talk from a dream world.

Mr. CONYERS. You remind me of the fact that we must admit even in an attempt to remove handguns from our society, that there must be a concomitant program to build more effective local police support and enforcement across the country. There is no Secret Service agent in the ghetto to protect anybody. There are not even police there.

Frequently, it's been my experience to see policemen go in the opposite direction that might require them leaving citizens stranded. I remember in one neighborhood on the east side of Detroit, the citizens were afraid to identify themselves as having called the police to report another neighbor's infraction because they feared retaliation. They would go to the police station and sign a complaint secretly. Then the policemen would come out. But they didn't want anybody to know they had, in fact, called the police. Because who knows what might happen after those police have removed themselves.

Mr. ASHBROOK. Will the gentleman yield?

Mr. CONYERS. Yes.

Mr. ASHBROOK. Everybody has their own high point in the hearings. I would have to say what the gentleman said when I think back to the Cleveland hearings, and one councilman who testified that when he was a boy, he used to settle the neighborhood argument by a knock on the neighbor's door and talking about the dog, the garbage can, the rowdy kids. You don't do it anymore because when you knock on the door, they're afraid of that gun behind the door.

Even with the position I have, I can't help but think of all the statements that were made, that was the most compelling one to me, that you no longer settle a neighborhood argument in many areas of this country by a knock on the door because you're afraid that you'll get your head blown off when the guy opens the door. I'll never forget that statement. It ties, basically, to what you're saying.

Mr. CONYERS. I have only one further question. And I apologize to this subcommittee.

Mr. MORGAN. I have something to add and to amplify what the Congressman said. When I was a boy growing up in Birmingham, they had burglar bars. In white residential areas, you would find burglar bars up. And as a boy growing up who wanted to become a lawyer, I didn't want to be behind bars. I remember that always bothered me. We didn't have any burglars, but we did have burglar bars. Now I go to the homes—

Mr. CONYERS. What are they? Would you describe them?

Mr. MORGAN. They're bars on the windows that run up the bottom half of the window, and they're bolted into the house so that every-

time you look out those windows, which people would have access to climbing up and coming in, you see through bars. We see them now in cities amongst—I don't go into an awful lot of conservative homes—some I do—but there are an awful lot of liberal homes I go into where I see them.

Mr. ASHBROOK. You might like some of them. You'd be surprised.

Mr. MORGAN. I know some of your friends, Congressman. And I like them as much as you do.

I wonder as I go to some of the liberal homes, almost salons, where people are trapped inside. You're trapped if you're in them. You're trapped if you try to get out. What if there is a fire. Crime in the streets and fire in the home. That's no way for Americans to live.

Mr. CONYERS. My last point turns on the various kinds of mandatory sentencing provisions that have been proposed in administration bills and others. There is this great popular view that if you get tough with these fellows, if you let them know we finally are tired of playing around with people using guns, that we can somehow begin to influence and inhibit their behavior prior to what might otherwise result in the commission of a crime.

We presently have in the Federal law a mandatory sentencing for a second offense involving the use of a weapon. Of course, the consideration now is to apply it to the first offense in connection with Federal crimes.

Have you, in the course of your experience, a view that you would leave us on that question?

Mr. MORGAN. I'm just flat opposed to it. I noticed that in the preceding testimony, when Congressman Ashbrook was asking questions. Those who talk in terms of the control of criminals by minimum mandatory sentencing and no probation and all of these kinds of things, are as impractical and unrealistic as any people in this whole wide world.

I read in the morning newspaper about the Bunge Corp., one of our five large grain dealers. They have "copped a plea." They pleaded nolo contendere just as did one of our recent Attorney Generals. They got off with it. They made a \$2-million agreement, and somebody in the Justice Department said this was the finest plea bargain in history. I look at all those things, and I see who gets the good bargains. The rich folks. Who pays the most? Who gets the gasoline? Rich folks. Who gets the handguns? Rich folks. Who gets probation? Rich folks.

That's not what this country is supposed to be all about.

Mr. CONYERS. Spoken like a true populist.

It seems to me that too frequently there is a characterization of citizens as criminal, as if the people don't decide who are otherwise law abiding, that they will participate in an act. There are an *x*-number of people who walk through life as criminals. I'm not saying there are not hardened people who are inured to a life of crime, but the far greater majority of people, as I have seen them in the criminal courts of Detroit, are more pathetic than anything else. The people I have seen incarcerated in the State prisons around this country—and I was a member of our colleague Bob Kastenmeier's subcommittee when we toured prison after prison, both Federal and

State. Many of them were illiterate. Their crimes were really quite unoriginal. They were economic acts mostly.

The description of some of their conduct that led them to prison would be common except they were sentenced so severely, they were sentenced so severely that they were sent to institutions that, for the most part, would harden and make more of them antisocial than would ever not be antisocial.

So putting them away under a mandatory provision is going to assure that when that time does expire—and I haven't yet heard anybody advocate a permanent mandatory sentence for anybody—although there is a great hue and cry about capital punishment, I don't think it would apply to the illegal possession of a gun—at least it hasn't so far—those people would come back. What I keep thinking about is how many more crimes, more heinous, more antisocial, we would be confronted with. It's like feeding a fire with fuel.

Mr. MORGAN. Sure it is. You can say you want to make a mandatory minimum sentence for the first use of a handgun but the first crime normally committed by even the "great criminals," John Dillinger, folks of that nature arises when a person leaves a key in a car, and a kid steals it. An eventual solution under the "lock up" reasoning process is that we would not have any handgun problem if we just locked up the whole country.

A part of what I'm worried about is the locking up of the whole country, mandatory sentences.

Let me go a little further. The felons' provisions—felons can't get a gun, mental defectives can't get a gun, a person committed to a mental hospital can't get a gun. In that rational classification, John Ehrlichman is a felon. I look at that, and I say to myself, this is crazy.

Second, you say that not only do John Ehrlichman but an average citizen, and a world of folks commit crimes—perhaps even that mom and pop store dealer. They may commit a couple of crimes along the way. You take farmers out in the district. Farmers are notorious for not filing their income tax returns.

These pieces of legislation conceive of a society that doesn't exist. They are impractical in the sense that they only meet the needs of a compromise, the needs of Colt and Remington. They make certain that American gun manufacturers will make quality products. But they wind up with no solution to the problem, except to make it harder for poor folks to get guns. Most poor people are not mental defectives, felons. Nor have they been committed to mental hospitals.

Mr. CONYERS. I'd like to turn the questioning to my colleague from New Jersey.

Mr. HUGHES. Thank you, Mr. Chairman. And thank you, Mr. Morgan, for your testimony. I respect your opinions. We disagree on most of what you have relayed to us. I disagree with you insofar as we can get people to surrender their weapons. I don't find that what you suggest is at all accurate. I believe that we would make felons out of a lot of law-abiding citizens.

But I have a more basic disagreement with you. And that is, I think there is a legitimate interest on the part of law-abiding citizens in owning a weapon. So we have a very basic disagreement.

Mr. MORGAN. But I don't think we have that disagreement. I said that the ACLU and I would agree on the abolition of handguns. But

I think I also told the Congressman it was my personal position on long guns—that I think it's a good idea for everybody to have one.

Mr. HUGHES. But it's not all lost. We appreciate your getting up at 4:30. It looks like the barber did a good job on your hair.

I do appreciate your testimony. I think you do put forth a lot of good arguments, and they give us all a lot of concern, to those of us that feel that there are ways of controlling guns and the illicit traffic and the illegal use of guns. Compromise is perhaps a part of it, but also a part of it is the right of people to legitimately possess and own weapons. The right of society to regulate illegal use—isn't that what we do almost every day anyway?

Mr. MORGAN. It depends on what we're talking about. We don't do that, of course, with heroin. We merely outlaw it. The price of it is rather high, and I think the use of it is rather less because it's outlawed.

Mr. HUGHES. You can't compare the possession of handguns to the possession of heroin.

Mr. MORGAN. I can't compare it because the possession of handguns kills far more people than heroin. The effect of handguns in our society is far more debilitating than that of heroin.

Mr. HUGHES. I think we both agree that—I think we all agree that we have to achieve a reduction in the number of handguns in the possession of those who have no legitimate interest in possessing them. The only question is how we arrive at that goal. I don't think it's a fair assessment to say that those of us who feel that there is a moderate approach really are using a cop-out because inherent in my own philosophy is a basic belief that there are law-abiding people in this country who possess and have a right to possess handguns, who would not surrender handguns if the Congress passed a law tomorrow and gave them 60 days to surrender their handguns.

Mr. MORGAN. Then they would be criminals, and I don't see anybody proposing a mandatory minimum sentence for them.

Mr. HUGHES. I have a great reluctance to make felons out of otherwise decent, law-abiding citizens.

Mr. MORGAN. Let me give you just a couple of examples. We have tax laws in this country that make felons out of a great number of law-abiding, otherwise decent citizens. We have speed laws in this country that make misdemeanants out of a great number of otherwise law-abiding, decent citizens. Why has that happened? We have a speed limit of 55 miles an hour. We build automobiles that will go 120 miles per hour. That strikes me as kind of absurd. I think it's analagous to this.

Mr. HUGHES. I agree with that. But how many deaths occur every year in the use of automobiles?

Mr. MORGAN. I think about the same. I'm not sure; 60,000.

Mr. HUGHES. We can eliminate that by eliminating automobiles.

Mr. MORGAN. We can even do better if we just made automobiles that wouldn't go more than 55 miles an hour. If that is our limit, why make criminals?

Mr. HUGHES. I think that's fine. Isn't that in essence the thrust of the argument of those of us who feel there are other ways besides absolute confiscation?

Mr. MORGAN. Then put out law that says the bullet from a handgun won't get but half-way out of the barrel—

Mr. HUGHES. I couldn't agree with you more. I have great difficulties with understanding the difference between a 3-inch barrel and a 4-inch barrel when you're looking down the other end of it.

Mr. MORGAN. That's right. There's no difference.

Mr. HUGHES. It's just as lethal. You've just made the argument for those of us who feel there is a common ground that protects the legitimate interests of those who can possess and own a weapon in society.

Mr. MORGAN. If I have made your argument for you, you may be well assured it was by inadvertence. Nor do I agree that I have, I know, for instance, that if we had guns the size of that tall one, the Mannlicher-Carcano, 6.5—I can't pronounce it very well—but that nice rifle at the top with a telescopic sight—I reckon we could fit those into violin cases. I know there's going to be guns. I'm not talking about that. I understand some folks are going to break the law, and some folks are going to get killed. But I do know, second, that handguns are an open invitation for folks to shoot their wives and husbands.

There are two great causes, symptoms, of crime. And you know in this country you sometimes treat the symptoms. Even in the field of rabies, they're finding you can treat the symptoms.

Two examples. It's not narcotics, it's alcohol that is implicated in most crimes of violence in this country. Crimes of violence are not crimes of people who don't know each other. Most of them do know each other. And the second common factor is handguns. We have in this country in a number of States, for instance, dram shop acts, which make a proprietor of a dram shop liable in a damage suit if a fellow goes out and kills somebody with an automobile because he becomes intoxicated at the dram shop. They're not enforced. We don't enforce many laws that really have something to do with violent crime.

The second common factor is handguns. Here we don't even have a law.

You can pass all the laws you want to about registration. What you're going to come up with is that the greatest law breaker the people have seen in the last 3 years—the Federal Government—will get new records over its citizens and new controls over its citizens on the computer.

The richer folks are going to be able to buy guns.

You are going to have the same kind of gunrunning under these bills that you had before.

But if handgun possession is outright outlawed, then it seems to me that at least we will have a standard in this Nation which people can be asked to live up to.

You may wind up next year with 20 million guns instead of 40 million handguns. And the year after that with 10 million.

If you outlaw gun parts, then the guns are going to go bad someday.

Mr. HUGHES. I understand your argument with regard to the abuses that you've seen. And the FBI and CIA—and you don't condone those abuses. I don't think anybody in this room does. But I think there's an essential need for the kind of recordkeeping the FBI has performed. We have no other uniform reporting system.

Mr. MORGAN. I don't think we should have any.

Mr. HUGHES. At the present time, the Alcohol, Tobacco, and Firearm Section approaches the entire tracing law in a rather archaic fashion. The records exist, but they exist at various locations. It doesn't make sense. And we do have a difference, obviously, as to the importance of a central recordkeeping system. I do take issue with the administration's point of view that we're going to have a 14-day cooling off period while we can check, but we don't want to insist upon an FBI check, which doesn't make sense to me. I understand your basic feeling about that. But, in the final analysis, a Saturday night special ban gives me special problems because you and I can go down to the plumber, and in a half hour, I can make you a very nice weapon that could be used by someone who really wants a weapon to commit a robbery. It doesn't take much to improvise your own little weapon.

I'm not so sure that the Saturday night special approach really is the answer. I have some basic misgiving about that.

Mr. MORGAN. The two of us plus a good fellow with metals might be able to go down and take a 10-inch pipe and get a frame about 5 inches long and make ourselves a gun that would comply with the factoring devices.

Mr. HUGHES. I wouldn't be surprised. But I don't think factoring has anything to do with it in the final analysis because weapons either comply or don't comply with the factoring, and are just as potent. And it makes no difference. The threat is still there.

I don't attach a great deal of significance to that. Though I do attach a great deal of significance to some of the other things I mentioned earlier during the colloquy I had with the previous witness. I do feel there is a common ground. Although I don't agree with your point of view, I do respect it.

Mr. MORGAN. You're a former prosecutor, and I respect yours with respect to records and the solution of crimes. My approach to that is simply that the founders of this country knew that some crimes were going to go undetected. Very soon after either piece of legislation passes here, the Federal gun permit, the little card you're going to carry around next to your driver's license, next to your son's picture in your wallet, pretty soon it's going to have your social security number on it. Pretty soon your census report's going to have that on it. Pretty soon it's going to be on all drivers' licenses. Then we'll all be in the position of South African blacks, folks who have passes. They're now trying to put in the Book of Life for all their citizens. Every record in your little book of life.

Mr. HUGHES. I'm a little more optimistic than you. I think even though it's a struggle, we're moving in the right direction.

Mr. MORGAN. I think these results are inherent. I think they will result inevitably. And you believe that some "moderate approach" can be taken—I use that word advisedly for I think my approach is "moderate" and "reasonable." You think those things can be worked out. I do not. I think our recent history has shown that.

And I think at some point Government just has to be stopped. Citizens have to be stopped. Corporations have to be stopped. You've got to lay down some lines in this country. And you have to say, this is simplistic, but most answers in life really are very simple. I went to law school, I practiced for 20 years, I know how my mind works. When I want to do something that I know I ought not do, I can find

a million rational reasons to do it. I call that the use of Frankfurterism in American law.

We disagree.

Mr. HUGHES. I understand. I sincerely believe you would be very unhappy after about a year of making felons of otherwise decent, law-abiding citizens. As a leader in the ACLU movement, I feel you would have great trepidation about that. I sincerely believe that.

Mr. MORGAN. Perhaps as a defense lawyer rather than as a prosecutor, I have a different view of people. I don't think we would be making them felons. I think we would be helping folks be good, decent, law-abiding citizens. For a tax credit, there might be folks just racing down to turn in their guns.

Mr. CONYERS. Let's turn the questioning to Mr. Ashbrook.

Mr. ASHBROOK. I guess I understand your position and find it rather interesting. I don't know exactly what word to put on it because I follow the organization rather carefully over the years, and I'm inclined to take potshots at a lot of people, and I haven't taken many at you or your organization because, even though you make me mad quite often, you always seem to be taking the unpopular, hard side of the issue. If there's one, common strain that seems to go through the ACLU, you come down on the side of the individual against the Government. You fear to build a big Government of power. You fear the police state. And you're more often than not questioning the State officials or the State. You're more often than not questioning legislative actions and regulations that you deem to be an infringement on individual rights. And it's taken you to some interesting points of view and interesting cases over the years. Everything from censorship—which I happen to agree with you on—to the matter of consenting adults and the laws that relate to sex, to the side of the person who wants to sew a flag on his pants and spit on the flag, burn the flag, walk into a corridor with a four-letter word starting with "f" written on his T-shirt—you've always come down on the side of the individual.

And yet, in this particular case, from my point of view, you seem to be coming down on the side of the police state, the side of big Government against the individual. And that point, Mr. Morgan, leaves me wondering about the consistency of your position as an organization.

I know what you just said to Mr. Hughes—that the individual sometimes has to be told "no," that the State has to be told "no," et cetera—you're saying this is one time the individual has to be told "no."

Mr. MORGAN. I'm saying this one time—and you notice the personal position I took which the ACLU does not have on long guns.

Let's talk about individual rights in the gun question. You talk about government and a police state. We both know, I think, that a handgun is no defense against the Government or against a police state. I personally would take a position that even the police should not carry handguns.

Mr. ASHBROOK. I don't know if we both take that position. I think there's a lot more freedom in a country where you have them than a country where you don't have them. I think you might stipulate that.

Mr. MORGAN. As early as 1951 under the Emergency Detention Act provision of the McCarran Act, I think J. Edgar Hoover testified that

14,000 Americans hadn't filed so they were arrested immediately. A great number of liberals took the position that we should pass the emergency detention provision because that would allow only 14,000 Communists to be locked up—rather than 50,000 or more under martial law.

The same kind of recordkeeping that led Mr. Hoover to say that leads me to believe that this recordkeeping will make every pistol you're talking about as a protection against the Government—non-existent as protection.

Second, I don't know of any country or any group of people or any group of folks attacked by government who have ever been able to stand against that government by using handguns. The outright abolition of handguns with respect to the question of political speech and concealment of weapons, you know—

Mr. ASHBROOK. You've never, as an organization taken that half-safe attitude before. You're almost saying you're half-safe if you have a long gun and take away a handgun. That's an interesting compromise of your normal position.

Mr. MORGAN. We take a position that "Congress shall make no law," means that "Congress shall make no law" under the first amendment. We take a position under the second amendment—as the courts have interpreted it—is that no constitutional right present for every citizen to own a gun. That's the ACLU position.

Mr. ASHBROOK. You ran into the fourth amendment pretty close on this one, your search and seizure of a person in his own home, et cetera.

Mr. MORGAN. The best thing for a person in his own home is a shotgun. That is not a formal position adopted by our board.

Mr. McCLORY. Mr. Chairman, excuse me for interrupting. There's a vote going on.

Mr. ASHBROOK. I think in the interest of letting you catch whatever plane you want, I will end my questioning there.

Mr. CONYERS. I would appreciate it.

Let us excuse the witness at this point. I join the subcommittee in thanking you for joining us at some great expense. We excuse the witness and appreciate very much his testimony.

I now recognize the gentleman from Illinois.

Mr. McCLORY. I want to ask the chairman would you assign the next meeting date of the committee and hopefully, the 20th and the 21st of October for starters, when we can discuss the legislation?

Mr. CONYERS. Yes. I have before me three dates indicating your availability. It's my desire to pole all of the subcommittee, and we'll pick one of those dates, hopefully the earlier one, Monday, October 20, so that we can begin to markup.

I should state for the record that we have heard, I think, nearly every conceivable person's and organization's viewpoint. And it's my judgment that these hearings have been open, but that the record will be kept open for 2 additional weeks for statements of individuals or organizations that may choose to submit.

On that note, we thank the subcommittee and the staff and witnesses. We will recess at this point.

[Whereupon, at 1:50 p.m., the subcommittee adjourned, subject to the call of the Chair.]

APPENDIXES

APPENDIX 1

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

SEPTEMBER 24, 1975.

Memorandum to: Files.

From: Staff.

Subject: The Army civilian marksmanship program.

Beginning early in the 1900's Congress directed the Secretary of the Army to support private shooting clubs, sell rifles, shotguns, handguns and ammunition at cost to members of the National Rifle Association, and hold annual shooting matches open to both military personnel and civilians. The first token appropriations were made in 1903 for the purchase of trophies. By the mid 1960's, this program came to a cost of almost \$5 million annually.

In the mid and late 1960's, the Civilian Marksmanship Program was cut to a minimum following a series of Senate hearings into the gun control problem and the part the Marksmanship Program played in the proliferation of weapons had a marked increase in the tempo of the Vietnam War. The cutback in the program was an administrative one, rather than statutory, and was inspired at least in part by the rash of assassinations of public figures and the anti war mood of the times.

As the mid 1970's approached, the program showed signs of gradually increasing in size and cost, repeating the pattern followed earlier of its growth to the multi-million dollar budgets of the late 1950's and early 1960's.

The overall marksmanship program is under the supervision of the National Board for the Promotion of Rifle Practice, a self-explanatory title. Beyond that, the precise mission, composition and so forth of the National Board has never been spread on the statutes. According to an Army-financed study by the Arthur D. Little Company in 1968, the National Board was created by an act of Congress in 1903 at the request of a "group of officers and the National Rifle Association with the support of Elihu Root," then Secretary of War. The National Rifle Association, in turn, had been organized by a group of National Guard officers in New York in 1871 as a non-profit membership corporation. Until 1908, according to the Little study, its board of directors was made up of State Adjutants General. The aims of both organizations are similar, the promotion of rifle practice specifically, and the use of firearms in general.

Over the years the NRA has found, numerically, most of its support amongst hunters. To the extent that is so, its original aim to train riflemen for military service has gone by the boards. Its constituency, by age and preference, seems more interested in owning guns and hunting than in joining the Army and fighting. Most Americans know the NRA through its exercise of its bragging rights as the most effective lobby for the preservation of the right to keep and bear arms: In short, chief spokesmen for the gun lobby by its own assessment.

Yet, the NRA-National Board relationship is unique in official American life. The NRA is designated by statute as the civilian's sole source of military weapons. (Details below) It is tightly woven into the Army's table of organization, coordinating the official National Matches, among other things. Over the years it has dominated government policy over the Civilian Marksmanship Program through its virtual control of the National Board for Promotion of Rifle Practice. In addition to its own membership on the Board, the NRA is the official nominating agency for all the civilian members of the Board, which makes policy and administers the Marksmanship program, its budget, weapons sales and so forth. Frequently the NRA's operating head—the executive vice president—is a retired military man. The American Rifleman—the NRA magazine—is the official publication for the Civilian Marksmanship Program, twice a year publishing its price lists for guns and ammunition and the other official announcements of the National Board.

By statute, U.S.C. 10, section 4307, the President details a military officer as Director of Civilian Marksmanship. The DCM is the implementing officer for the entire program and operates under the supervision of a designated Under Secretary of the Army.

Under U.S.C. 10, section 4308, adopted in 1924 without hearings, the purchase of surplus military arms and ammunition from the government through the National Board for the Promotion of Rifle Practice and the Director of Civilian Marksmanship, it became necessary to be a member in good standing of the National Rifle Association.

As the statute was implemented, .45 caliber pistols, standard issue military rifles, shotguns and other material including ammunition were sold at cost to members of the National Rifle Association. Though records are incomplete (none available before 1921, and none of the 16 years from 1941-1957) it is estimated that the Army disposed of more than 1 million guns to NRA members through the program (table attached).

It should be noted, however, that following the Arthur D. Little study in 1966 and the Senate hearings in 1967-68, an administrative decision was made to stop the sale of .45 caliber automatics and to tighten up on the requirements for the purchase of other weapons, including fingerprinting and a police check on prospective NRA purchasers. The annual cost of the program was also cut from approximately \$5 million annually to \$136,750 annually. Appropriations dropped to a low of \$52,000 in 1970, and has grown to \$183,000 in 1975.

TABLE H-1.—MILITARY FIREARMS SOLD BY ARMY TO NRA MEMBERS¹

Year	Handguns	Rifles	Shotguns	Other	Total
1921.....	4,079	5,877	.....	.....	9,956
1922.....	3,357	10,482	.....	.....	13,839
1923.....	.....	5,470	.....	.....	5,470
1924.....	135	5,777	.....	.....	5,912
1925.....	1,449	8,265	.....	.....	9,714
1926.....	2,645	5,319	.....	.....	7,964
1927.....	482	8,766	.....	.....	9,248
1928.....	657	12,764	.....	.....	13,421
1929.....	408	14,797	2	.....	15,207
1930.....	.....	15,135	7	.....	15,142
1931.....	.....	20,111	7	.....	20,118
1932.....	170	4,167	.....	.....	4,337
1933.....	129	3,268	1	.....	3,398
1934.....	118	4,051	.....	.....	4,169
1935.....	231	6,141	.....	.....	6,372
1936.....	145	6,616	3	.....	6,764
1937.....	154	7,032	.....	183	7,369
1938.....	129	6,962	.....	.....	7,091
1939.....	80	6,747	.....	35	6,862
1940.....	81	7,929	.....	16	8,026
1941-57 unavailable ².....	.....	.....	.....	.....	.....
1958.....	88	844	.....	.....	932
1959.....	9	6,071	.....	.....	6,080
1960.....	35,732	71,204	.....	.....	106,936
1961.....	38,806	78,023	4,329	.....	121,158
1962.....	43,062	77,180	2,343	.....	122,585
1963.....	19,551	125,574	1,813	.....	146,938
1964.....	870	54,346	154	.....	55,370
1965.....	6,874	44,654	10	.....	51,538
1966.....	7,489	31,841	17	.....	39,347
Total.....	166,930	655,413	8,686	234	831,263

¹ Staff report, "Firearms and Violence in American Life," Newton and Zimring.

² The Army has advised the task force that regulations between 1941 and 1957 did not require keeping of these records

SEPTEMBER 30, 1975.

Memorandum to : File.

From : Gene Gleason, research assistant, Subcommittee on Crime.

Subject : American Law Division report (9/17/75—attached) on when U.S.C. 10, section 4308 was added. That is, when did the National Rifle Association become the sole conduit for the sale of military small arms to the American public?

The report speaks for itself.

It finds that section 4308 was added on May 12, 1924 after a limited debate on the Senate floor. The debate did not focus on the relative merits of the proposal to sell surplus United States small arms exclusively to members of the National Rifle Association, but rather to clear up a procedural problem repeatedly raised by the House over an appropriation for the National Board for the Promotion of Rifle Practice.

The War Department appropriations bill for that year contained language establishing rifle ranges for use of all able-bodied males under National Board supervision and regulation, providing material and manpower support for their

operation with an appropriation of \$89,900, with not more than \$80,000 of that amount to be spent for the payment of transportation, for supplying meals or furnishing commutation of subsistence of civilian rifle teams authorized to participate in the national matches. The bill also provided for national trophy medals and other prizes to the tune of \$7,500 and for arms, ammunition, targets and other accessories to cost no more than \$10,000.

The House rebelled on the grounds that there was no authorization for the appropriation, and struck the provisions. The Senate restored the stricken provision intact. It was approved by a voice vote on the Senate Floor.

There appears to be no other statute specifically establishing the National Board, or assigning its mission, membership, etc. The earliest reference to the National Board appears on January 12, 1911. At that time the House Committee on Military Affairs held a hearing on a Senate Passed bill (S. 5008) to authorize the Secretary of War to provide rifles, ammunition, targets and so forth to civilian rifle clubs, and others, under regulations by the "National Board for the Promotion of Rifle Practice." But, the National Board was referred to in lowercase.

From the records available, it appears that the bill—containing the earliest reference to the National Board that a careful search of the records has produced—was never adopted by Congress.

Beyond that lowercase reference, there appears to be no clear statutory authority which details the membership, function, scope of activities and so forth of the National Board for the Promotion of Rifle Practice.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., September 17, 1975.

To: House Judiciary Subcommittee on Crime.

Attention: Gene Gleason.

From: American Law Division.

Subject: Addition of 10 U.S.C. 4308 to U.S. Code.

This is in response to your request regarding the above. As we discussed on the phone, 10 U.S.C. 4308 was first adopted in the 68th Congress as part of the appropriations bill for the War Department. 43 Stat. 510 (June 7, 1924). The provisions were adopted pursuant to an amendment offered on the Senate floor by Sen. Warren, 65 Congressional Record Part 8, at 8340-41 (May 12, 1924). The limited debate on the amendment focussed not so much on its substance as on the need for the amendment to obviate a procedural problem, namely, the repeated elimination on a point of order in the House of an appropriation for the National Board for Promotion of Rifle Practice.

The appropriations bill for the War Department, as reported by the House Committee on Appropriations, (H.R. 7877, 68th Congress, 1st Session, Mar. 12, 1924) contained the following language:

"NATIONAL BOARD FOR PROMOTION OF RIFLE PRACTICE. QUARTERMASTER SUPPLIES AND SERVICES FOR RIFLE RANGES FOR CIVILIAN INSTRUCTION

"To establish and maintain indoor and outdoor rifle ranges for the use of all able-bodied males capable of bearing arms, under reasonable regulations to be prescribed by the National Board for the Promotion of Rifle Practice and approved by the Secretary of War; for the employment of labor in connection with the establishment of outdoor and indoor rifle ranges, including labor in operating targets; for the employment of instructors; for clerical services; for badges and other insignia; for the transportation of employees, instructors, and civilians to engage in practice; for the purchase of materials, supplies, and services, and for expenses incidental to instruction of citizens of the United States in marksmanship, and their participation in national and international matches, to be expended under the direction of the Secretary of War, and to remain available until expended, \$89,900: Provided, That out of this appropriation there may be expended not to exceed \$80,000 for the payment of transportation, for supplying meals or furnishing commutation of subsistence of civilian rifle teams authorized by the Secretary of War to participate in the national matches.

"NATIONAL TROPHY AND MEDALS FOR RIFLE CONTESTS

"For the purpose of furnishing a national trophy and medals and other prizes to be provided and contested for annually, under such regulations as may be prescribed by the Secretary of War, said contest to be open to the Army, Navy, Marine Corps, and the National Guard or Organized Militia of the several States, Territories, and of the District of Columbia, members of rifle clubs, and civilians, and for the cost of the trophy, prizes, and medals herein provided for, and for the promotion of rifle practice throughout the United States, including the reimbursement of necessary expenses of members of the National Board for the Promotion of Rifle Practice, to be expended for the purposes hereinbefore prescribed, under the direction of the Secretary of War, \$7,500.

"ORDNANCE EQUIPMENT FOR RIFLE RANGES FOR CIVILIAN INSTRUCTION

"For arms, ammunition, targets, and other accessories, for target practice for issue and sale in accordance with rules and regulations prescribed by the National Board for the Promotion of Rifle Practice and approved by the Secretary of War, in connection with the encouragement of rifle practice, in pursuance of the provisions of law, \$10,000."

This language was stricken from the bill on the House floor on a point of order, on the grounds that no authorization existed for the appropriations.

The Senate Committee on Appropriations restored the stricken provisions intact. On the Senate floor Sen. Warren offered his amendment for the express purpose of providing clear authorization for the questioned appropriations, and thus eliminating the recurring House objection. The amendment was adopted by voice vote. 65 Cong. Rec. Part 8 (68th Congress, 1st Session), at 8341.

The debate on the Senate floor suggested that this procedural difficulty was a recurring problem: the appropriations to the National Board for the Promotion of Rifle Practice had evidently been made for a number of years, but had repeatedly been objected to on a point of order upon initial consideration in the House. Evidently because the appropriation was not novel, the House and Senate reports on H.R. 7877 provide no explanation of the appropriation. H. Rept. No. 288 (Mar. 12, 1924) ; S. Rept. No. 306 (Mar. 31, 1924), 68th Congress, 1st Session. Similarly, a quick review of the House and Senate hearings on H.R. 7877 (the fiscal 1925 War Department appropriations bill) discloses no discussion of the program. House Appropriations Committee, Hearings on H.R. 7877 (Dec. 19, 1923; Jan. 7, 1924) ; Senate Appropriations Committee, Hearing on H.R. 7877 (April 1, 1924).

Our research discloses one Congressional hearing on the subject of encouraging civilian rifle practice. On Jan. 12, 1911, the House Committee on Military Affairs held a hearing on a Senate-passed bill (S. 5008) to authorize the Secretary of War to provide rifles, ammunition, targets, prizes, etc. to civilian rifle clubs, and to schools carrying on military training, under regulations to be issued by the National Board for the Promotion of Rifle Practice. House Committee on Military Affairs, Hearing on Rifle Practice Among Citizens of U.S., 61st Congress (Jan. 12, 1911). The bill evidently was not adopted.

I hope this is responsive to your request.

DAVID M. ACKERMAN,
Legislative Attorney.

[The American Rifleman, June 1975]

NRA EXPANDED ACTIVITIES IN SHOOTING PROGRAMS

Use of shooting and related outdoor sports in school curricula can create worthwhile lifetime interests and foster attitudes and skills useful throughout a student's life.

This was the message of speakers at the general session on NRA shooting programs at the Annual Meetings.

George Hanson of the Minnesota Department of Education explained how shooting safety sports have been incorporated into the curriculum of Minnesota schools, setting an example for educators all over the country.

Shooting and related outdoor activities, Hanson says, are very relevant to today's student, and are valuable as a means of developing self-confidence and self-discipline. They serve to motivate the student to explore other areas of

study, such as ecology, math, physical and biological sciences and other worthwhile interests.

Hanson sees shooting and outdoor education as part of the bright future ahead for today's youth. This departure from more traditional physical education programs helps shape the character of young people through their involvement and, more important, will lead to greater appreciation of the outdoors and help guarantee the future of NRA.

Wayne Sheets of the NRA Competitions and Training Division then explained the NRA role in providing materials, programs, and aiding in communication and teacher education, as well as in-service training for instructors and educators. Lt. Col. Joseph S. Smith (AUS Ret.), Executive Officer of the Office of the Director of Civilian Marksmanship, explained the role of the National Board in youth programs and reassured those present that in spite of decline in DCM activities since 1968 the DCM program was alive and well and that NRA members would see more in NBPRP Programs.

There are 2600 affiliated clubs with 150,000 members eligible for assistance from the DCM. Junior clubs can receive free .22 ammunition and targets as well as borrow rifles from the DCM. Senior affiliates clubs can be issued rifles and may buy targets.

Of increased interest is a two-year-old program which will provide intense training to promising junior shooters selected on the basis of their performance in regional and national competition. Training will be conducted at MBC Quantico, Va., and Ft. Benning, Ga., and is intended to develop the skill of promising Junior shooters to provide potential International shooters for U.S. Teams.

Thomas Sheldon of the Mississippi Law Enforcement Officers Training Academy discussed NRA Police Training Programs. Upon examination of statistics involving shooting death or injury of officers in the line of duty, training in the use of their duty firearms becomes more important than ever. The NRA Police Shooting Program serves to improve the skill of the individual officer to insure his responding properly in an emergency so that he can achieve a higher proficiency at his job, minimizing the danger to himself and the community. The program includes both training and National and Regional competitions and the NRA Police Firearms Instructor Schools.

[Congressional Record, House, Sept. 30, 1975]

Precisely how the military services will allocate the reduction in O. & M. funds between the various schools, civilian and military, is left to them. The military people have this flexibility.

I am sure that the committee would have no objection if the O. & M. reduction made for the Navy post graduate school was not a full 10 percent of their budget request. We are not asking for a 10-percent reduction in funds for Monterey only a 10-percent reduction in Navy officers in school. The committee realizes that there must be some flexibility in the allocation of this reduction. Also, by the time this bill becomes a law, about one-third of the school year will be history. Thus, it may not be possible to obtain the full \$860,000 reduction recommended by the committee this year, in precisely the manner proposed.

However, I am opposed to restoring any funds to the bill for this purpose since the reduction can be absorbed from within the total of \$8 billion provided for the Navy for O. & M. expenses, and the sum provided for the Navy O. & M. expenses is the tidy sum of \$8 billion.

Mr. TALCOTT. I greatly appreciate the explanation of the chairman, and I concur. I can understand the interest in the committee's wanting to reduce the number of graduate students, but I was concerned that some of the students particularly at the private universities are already in school. They have already contracted at the universities for the payment of their full course so that the full impact of this reduction—had it not been cleared up by the chairman as he now has—would land on the government training programs.

At the post graduate school also they have already begun their school year, or they will have very quickly in the next few days, and it would be impossible for them to cut 10 percent now. We cannot cut those people over there, so it would require a 20 percent cut later on.

I appreciate the chairman's explanation.

Mr. MAHON. If the gentleman will yield, the committee is well aware of the vigor of the gentleman from California in respect to this matter. It has been

a matter in which he has shown a great deal of interest not only recently but through the years.

The gentleman has been very helpful in this area and we are glad to have his assistance with respect to the problems which have been presented to the House by the gentleman from California.

Mr. TALCOTT. I greatly appreciate that but I think the committee ought to be very seriously concerned about graduate education in general in the training for military personnel. If they are not as well trained as their adversaries around the world and our business counterparts, then they are in serious trouble. But I greatly appreciate the chairman's explanation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses of construction, equipment, and maintenance of rifle ranges, the instruction of citizens in marksmanship, and promotion of rifle practice, in accordance with law, including travel of rifle teams, military personnel, and international competitions, and not to exceed \$10,000 for incidental expenses of the National Board; \$233,000: *Provided*, That travel expenses of civilian members of the National Board shall be paid in accordance with the Standardized Government Travel Regulations, as amended.

POINT OF ORDER

Mr. YATES. Mr. Chairman, I make a point of order against the appropriation on page 16, lines 11 through 22, for the reason that one of the appropriations exceeds the appropriation authorized by law and, second, that the proviso is legislation on an appropriation bill and therefore violates the rules of the House.

Mr. SIKES. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman from Florida.

Mr. SIKES. Mr. Chairman, in my opinion the statutory authority for the operations of the National Board is contained in title 10, United States Code, sections 4307 to 4313.

Mr. Chairman, section 4307 states that—

The President may detail a commissioned officer of the Army or of the Marine Corps as director of civilian marksmanship, to serve under the direction of the Secretary of the Army.

Furthermore, section 4308(a) states that "The Secretary of the Army under regulations approved by him upon the recommendations of the National Board for the Promotion of Rifle Practice . . .", shall perform certain responsibilities, which will be carried out by the Director of Civilian Marksmanship.

References to the National Board are made several times in these provisions of law. For instance one of the responsibilities of the Secretary of the Army under section 4308 is to provide for the maintenance of the National Board, including providing for its necessary expenses and those of its members. That requirement is contained in subsection 4308(a) (6).

Mr. Chairman, I contend that the references I have cited implicitly implies that a National Board would be established by the Secretary of the Army for the promotion of rifle practice and the inclusion of funds for the support of its operations is proper in the defense appropriation bill.

Mr. Chairman, maybe the authorizing legislation is not a perfect act of law but I believe it is clearly understandable and that it was the intent of the Congress to allow the Secretary of the Army to establish a National Board as a permanent organization to recommend to him the procedures and practices to be followed by the Director of Civilian Marksmanship in conducting a training program for civilians in the proper use of firearms. The manner in which this legislation was written is probably due to the fact that a National Board for the Promotion of Rifle Practice was already in existence at the time it was being drafted and considered by the Congress. The National Board has had a long history and was first established under an act approved March 2, 1903, making appropriations for support of the Department of the Army for the fiscal year 1904. Thus, I assume our legislators at the time of the passage of Public Law 84-1028, approved August 10, 1956, and which has been codified as title 10, United States Code, 4307 to 4313, were of the opinion that the legislation would continue the existence of the National Board.

Mr. Chairman, I therefore trust the point of order will be overruled.

The CHAIRMAN. Does the gentleman from Illinois wish to be heard further on the point of order?

Mr. YATES. Only to say, Mr. Chairman, I believe that my good friend, the gentleman from Florida, is heaping encomiums upon the Board and not talking to the specific point I raised with respect to the lack of authority for the appropriation of incidental expenses beyond their authority with respect to the proviso.

The CHAIRMAN (Mr. ROSTENKOWSKI). The Chair is ready to rule.

The Chair has examined United States Code title 10, section 4308, subsection (b) and clearly notes there is an appropriation authorized of \$7,500 for the National Board for the Promotion of Rifle Practice. The Chair agrees with the argument stated by the gentleman from Illinois that there is a limitation on the amount authorized for expenses of the Board and the proviso is legislation and, therefore, sustains the point of order against the entire paragraph raised by the gentleman from Illinois.

AMENDMENT OFFERED BY MR. SIKES

Mr. SIKES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIKES: On page 16, line 11, in lieu of the matter stricken insert the following:

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

For the necessary expenses of construction, equipment, and maintenance of rifle ranges, the instruction of citizens in marksmanship, and promotion of rifle practice, in accordance with law, including travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions, and not to exceed \$7,500 for incidental expenses of the National Board; \$233,000. *Provided*, That travel expenses of civilian members of the National Board shall be paid in accordance with the Standardized Government Travel Regulations, as amended.

POINT OF ORDER

Mr. YATES. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. YATES. Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Florida on the grounds that the proviso is legislation on an appropriations bill.

The CHAIRMAN. Does the gentleman from Florida care to be heard on the point of order?

Mr. SIKES. Mr. Chairman, I feel that we are simply utilizing legislation which has been in existence since 1903, that the point of order by the gentleman from Illinois is not in order and that I am by my amendment simply conforming to the authorization which is contained in the law.

Mr. Chairman, I trust that the point of order will be overruled.

The CHAIRMAN (Mr. ROSTENKOWSKI). As the Chair stated earlier, the proviso carried in the amendment is not in the permanent law and is legislation, and therefore, the Chair sustains the point of order of the gentleman from Illinois.

AMENDMENT OFFERED BY MR. SIKES

Mr. SIKES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIKES: On page 16, line 11, in lieu of the matter stricken insert the following:

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For the necessary expenses of construction, equipment, and maintenance of rifle ranges, the instruction of citizens in marksmanship, and promotion of rifle practice, in accordance with law, including travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions, and not to exceed \$7,500 for incidental expenses of the National Board; \$233,000.

Mr. Chairman, I trust that the language which I have submitted will all of the objections that have been raised on points of order, and that

the language which I have offered as an amendment, would permit the continuation of the work of the National Board for the Promotion of Rifle Practice.

I would like to point out that this is an old and historic agency which has been in existence for most of this century. It is, as the language of the amendment and the language of the bill state, intended to assist in the instruction of the citizens in marksmanship. The program primarily is directed to junior clubs made up of boys 14 years of age or older who are instructed under proper and careful supervision, in the use of .22 rifles. These are loaned to the clubs by the government. The clubs are provided .22 caliber ammunition which is not required for government purposes.

In addition to that, the National Board supports citizens' shooting teams which participate in the Olympics. Without the assistance provided herein, it would not be possible for the United States to be represented at the Olympics with a shooting team. These shooting teams are made up of people selected at Camp Perry in national matches. Some of the members are civilians and some are military personnel. The best marksmen in this country go to the Olympic matches. The Olympic commission does not defray the expenses of certain teams. Thus without this bill our team could not go. U.S. teams usually give a very good account of themselves and help to add to the laurels of the entire American Olympic team.

I feel that the continuation of the National Board for the Promotion of Rifle Practice and its work has been justified through the years. It has consistently received the support by the public and Congress. It will be a mistake not to continue the program now.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I would like to say that from the time within the memory of any Member here, we have provided in this bill for the support of the National Board for the Promotion of Rifle Practice. I strongly support the gentleman's amendment which is, in effect, the major provision which has been agreed to in the bill which is presented today.

Mr. SIKES. I thank the gentleman.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I want to thank the gentleman for yielding to me and tell him that I support his amendment and would urge the House to adopt it.

As the gentleman has pointed out, unless this amendment is adopted here, support for the Olympic matches will not be here. I think it would be a shame for the U.S. team not to be represented in the Olympics. As is pointed out in the hearings at page 895, we did not do very well the last time against the Russians in these matters, and hopefully we can do a little better the next time.

Let me say further, Mr. Chairman, that I am familiar personally with the matches that are carried on, the national matches carried on at Camp Perry, Ohio, which happens to be in my district. They have carried on these matches for many, many years, and I think it would be a shame if they were not continued.

Further, let me point out that there are over 2,300 civilian clubs, civilian marksmanship clubs, that would be affected if this amendment is not approved. Certainly, we do not want these people who are people out of trouble—out of trouble—not to be given the wherewithal to continue in this sport. I realize that there are a lot of people who think these people are the ones who are out shooting at Presidents or shooting at Congressmen, but they are not. I do not think I have ever had in my experience any information that a member of one of these teams has gone out gunning down a President or Member of Congress or public official or anybody else.

Mr. Chairman, I would urge the House to adopt the gentleman's amendment.

Mr. SIKES. I appreciate the gentleman's contribution.

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. YATES asked and was given permission to revise and extend his remarks.)

Mr. YATES. Mr. Chairman, standing at the podium behind me about 25 years ago, I recall Gen. Douglas MacArthur ending his speech to a joint meeting of the Congress with the refrain, "Old soldiers never die, they just fade away."

Unfortunately, that is not true about old Army programs. They do not die. They do not even fade away. They go on forever. And, as my friend, the gentleman from Florida, pointed out, this is a program that was conceived and originated in 1903 by the then Secretary of War, who was concerned that during the Spanish-American War American marksmanship had not been all that it should have been. And so in 1903 he requested and Congress created the National Board for

the Promotion of Rifle Practice. However, the program was limited only to the military—only to the Army, the Navy, the Marine Corps, and the National Guard. The Armed Forces were the beneficiaries of this program.

Somewhere along the line, that purpose was lost. Somewhere in the 70-year period the military was forgotten, the original purpose of the program was forgotten, but the program did not die.

As the chairman, the gentleman from Texas (Mr. MAHON) pointed out in committee, old programs just never die, they just never fade away. They go on and they go on and they go on. And this is one such program.

It is a program entirely for civilians. Oh, yes, military instructors are sent down, but it is entirely for civilians, now. It is now a boondoggle for the National Rifle Association.

The National Board for Rifle Practice is the stalking horse for the National Rifle Association. The National Rifle Association controls two programs.

Let me read to the Members from the authorizing legislation to which my friend, the gentleman from Florida, referred. It is section 4308 of title X, subsection 5, where the Secretary of the Army is authorized to sell—to whom—to the members of the National Rifle Association at cost, and not to anybody else but to members of the National Rifle Association, "and the issue to clubs organized for practice with rifled arms, under the direction of the National Board for the Promotion of Rifle Practice, of the arms, ammunition, targets, and other supplies and appliances necessary for target practice."

So the National Rifle Association has got a good thing going for it in this appropriation.

This program started out in 1962. It started out in 1962 with an appropriation of \$500,000, and gradually, over the years, in 1963 it went up to \$622,000. Then, it went down to \$433,000 until in 1968, following the assassination of Dr. Martin Luther King and Robert Kennedy, the program went into hiding. There was no appropriation in that year for the National Board of Rifle Practice directly. It was tucked into an appropriation for the Army. And then again it began to move in fiscal year 1970, when an appropriation of \$53,000 was made; again in 1971 an appropriation of \$102,000 was made for the National Board; and in fiscal year 1976 it is up to \$233,000 again.

But the most shocking thing in the program, as I say, is the fact that this is now for the National Rifle Association. No other group can get these rifles from the Government. As a matter of fact, until 1968 the Board even sold pistols to the National Rifle Association members, and only the members could buy pistols from the Army. And then at the time of the assassination, as I indicated of Dr. Martin Luther King and Robert Kennedy the sale of pistols was eliminated. No longer does the Army sell pistols to outsiders.

Mr. Chairman, there is absolutely no need for this program at all. It is purely an appropriation for the development of civilian rifle teams.

My friend, the gentleman from Ohio, has talked about the fact that there is money in the bill for the Olympic rifle team. That is true. But there is no money in this bill, or any other bill that I know of, for the Olympic track team; there is no money in this bill for the Olympic basketball team; there is no money in this bill for any of the other Olympic teams.

Why should we provide in this bill for an Olympic rifle team and leave out all the other teams and require them to raise money from private sources?

This is something that is very "cushy" for the National Rifle Association. After 70 years this program should be halted. It is about time that we call an end to it.

Mr. Chairman, I urge defeat of the amendment.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Chairman, I trust that my distinguished friend, the gentleman from Illinois, recalls that he has many times seen marksmanship medals being worn by members of the uniformed services on their uniforms. Those medals were awarded through the National Board for the Promotion of Rifle Practice. In addition to the civilian marksmanship teams there are military marksmanship practice programs as well as military clubs that are sponsored by the National Board for the Promotion of Rifle Practice.

The board makes a specialty of programs for junior rifle clubs using .22 rifles. These give civilian groups an opportunity to teach young boys the safe and proper handling of firearms.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. YATES) has expired.

(On request of Mr. SIKES and by unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. SIKES. Mr. Chairman, will the gentleman yield further?

Mr. YATES. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Chairman, it is through these junior rifle clubs that the National Board provides training in the proper use and safe handling of firearms.

The gentleman from Illinois has made quite a point concerning assassinations. Let me point out that none of the guns used in any of the assassinations he refers to were ever traced to those that were sold as surplus by the military through this program.

At this time, since 1967, only 300 long guns per year—no pistols—have been sold through this program. They were sold through the National Rifle Association, because that organization volunteered to screen recipients in order to be sure that they are law-abiding citizens and that the weapons would not fall into improper hands.

So there are many reasons why the program should be continued. It has made significant contributions through the years, and I am confident it will continue to do so.

Mr. Chairman, the reason that it is necessary that the rifle team in the Olympics be financed in this way is because the Olympic Association does not fund certain sports. This is one of them. If we do not fund the participation of the rifle team, we will not be represented at the Olympics in Montreal in the forthcoming competition.

Mr. YATES. Mr. Chairman, let me just comment upon what my friend, the gentleman from Florida (Mr. SIKES) has said. The implication is given by his statement that this is a program that is necessary in order to provide an ability in marksmanship to civilians in the event they move into the military program. This is one of the rationales that has been given to this program through the years.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. YATES) has expired.

(By unanimous consent, Mr. YATES was allowed to proceed for 1 additional minute.)

Mr. YATES. Mr. Chairman, Arthur Little & Co., at the request of the Department of Defense, about 8 or 9 years ago, made a study of the effectiveness of this program in terms of providing marksmen and people trained in marksmanship as members of the Armed Forces. This was done at a time when our young men were being drafted into the military service, drafted from all over the country. The report by Arthur Little & Co. stated that less than 3 percent of those drafted into the military had ever participated in any of the programs of the National Board for the Promotion of Rifle Practice—less than 3 percent.

Mr. Chairman, I think this is a program that has lost its utility. It is a boondoggle for the National Rifle Association. I submit that it ought to be cut off right now.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. SIKES).

The question was taken; and on a division (demanded by Mr. YATES) there were—ayes 29, noes 34.

Mr. LATTA. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialize equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355. Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for

the foregoing purposes; \$385,100,000, to remain available for obligation until September 30, 1978.

Mr. SIKES. Mr. Chairman, I move to strike the requisite number of words. [Mr. SIKES asked and was given permission to revise and extend his remarks.]

Mr. SIKES. Mr. Chairman, the proposed reductions to the E-3A, AWACS, program below the budget level reflect a misunderstanding of U.S. force requirements. Unfortunately, this comes on the heels of large reductions made in prior years and during the fiscal year 1976 authorizations proceedings.

I feel that the Air Force has made a better case for the AWACS program than the committee has seen fit to admit. The Chief of Staff of the Air Force is thoroughly aware of the problem and the potential of the AWACS. He has called the AWACS the single most important program in the entire general purpose force area. The program has also been publicly supported by the Secretary of Defense and senior officials of the Army and the Navy.

The appropriations bill now before you proposes to reduce the number of be procured based on the argument that 10 AWACS aircraft are sufficient to meet worldwide tactical commitment. The Air Force is strongly convinced that the number is completely inadequate and their arguments are impressive.

The Air Force states that, even with the minimum initial force of 15 aircraft, it would be forced into serious either/or choices. We could support U.S. forces in Central Europe, or two tactical orbits elsewhere or provide a limited defense capability for our own country—but to cover one of these requirements involves all 15 aircraft. The other two areas would be completely uncovered.

No one would argue that we should not plan on defending our own country if we were involved in a major conflict overseas. The availability of AWACS for air defense—the most critical element to our air defense forces—allows the Air Force to phase out the costly SAGE system and nearly 50 military radars with an annual savings of over \$100 million. The new supersonic Soviet bomber, the Backfire, is now deployed in the Soviet long-range-air arm. We should not ignore that threat. We should do something about it.

THE ARMY CIVILIAN MARKSMANSHIP PROGRAM

Statutes passed in the early 1900's directed the Secretary of the Army to support private shooting clubs; sell rifles, shotguns, handguns, and ammunition at cost to members of the National Rifle Association (NRA); and hold annual shooting matches open to both military personnel and civilians.¹ This support rose from the \$2,500 appropriated for trophies in 1903² to almost \$5 million in the middle 1960's.³ The "Civilian Marksmanship Program," as its elements are nomi-

¹ These statutes now provide in relevant part:

Civilian Rifle Ranges (10 U.S.C. § 4308). "The Secretary of the Army shall provide for (1) the . . . maintenance, and operation of indoor and outdoor rifle ranges; (2) the instruction of able-bodied citizens of the United States in marksmanship, . . . ; (3) . . . the maintenance . . . of matches . . . in the use of those arms, and the issue of arms, ammunition, targets and other supplies . . . (5) the sale to the members of the National Rifle Association at cost, and the issue to clubs organized for practice with rifled arms, . . . of the arms, ammunition, targets, and other supplies and appliances necessary for target practice. . . ."

Rifle Instruction (10 U.S.C. § 4310).

"(a) The President may detail regular or reserve officers and noncommissioned officers of the Army to duty as instructors at rifle ranges for training civilians in the use of military arms.

"(b) The Secretary of the Army may detail enlisted members of the Army as temporary instructors in the use of the rifle to organized rifle clubs requesting that instruction."

Issue of Rifles and Ammunition (10 U.S.C. § 4311). "The Secretary of the Army may provide for the issue of a reasonable number of standard military rifles, and such quantities of ammunition as are available, for use in conducting rifle practice at rifle ranges. . . ."

National Rifle and Pistol Matches (10 U.S.C. § 4312). "An annual competition called the National Matches and consisting of rifle and pistol matches shall be held as prescribed by the Secretary of the Army. The National Matches are open to members of the armed forces . . . and to civilians."

² 32 Stat. 941 (1903).

³ "Fact Sheet" on Civilian Marksmanship Program, undated, announcing actions taken on June 21, 1968, by the Secretary of the Army; testimony of David McGiffert, Under Secretary of the Army, Hearings on the Federal Firearms Act before the Senate Subcommittee To Investigate Juvenile Delinquency, 90th Cong., 1st sess., pp. 737, 738 (1967).

nated, has currently been cut to a minimal level,⁴ as it was during World War II.⁵

I. LEGISLATIVE BACKGROUND

At the beginning of the century, the Army was of the view that all infantrymen need not be trained to shoot accurately but only to deliver an even volume of fire over an entire area; trained riflemen were apparently expected to concentrate fire on obvious targets, leaving the rest of an opposing force unharassed.⁶ A contrary view seems to have been held by Congress, which began support of accurate shooting by authorizing the expenditure in 1903 of \$2,500 for trophies and medals for military rifle matches that year.⁷

The support of marksmanship was extended further in 1905 when the Secretary of War was directed to sell to the states, at cost, Army weapons and ammunition for use by rifle clubs.⁸ In 1911, civilians were authorized to compete for the national match trophies.⁹ In 1914, sale of Army weapons at cost was streamlined by allowing direct sale to members of rifle clubs.¹⁰

By 1916 the possibility that the United States might need a large Army encouraged preparation for mobilization. In keeping with European practice, the National Defense Act of 1916¹¹ envisioned an Army composed basically of untrained troops from civilian life stiffened by a cadre of Regular Army personnel. In addition, support of civilian rifle clubs under the Civilian Marksmanship Program was authorized.¹² A Director of Civilian Marksmanship (DCM) was appointed,¹³ rifle ranges were built, and personnel were assigned to instruct on the ranges.¹⁴

The shortage of rifle instructors and untrained riflemen during the mobilization for World War I reinforced the postwar position of the members of Congress interested in appropriating funds for the national matches, the sales program, and support of the rifle clubs.¹⁵ The Army, which by then supported accurate marksmanship for all its personnel and had surplus ammunition, offered no opposition.¹⁶ In 1924, however, opponents of such expenditures managed to strike from the appropriation bill the language supporting the marksmanship program by successfully arguing that such language was in fact substantive legislation unsuited to an appropriation bill.¹⁷ Congress thereupon enacted legislation restating in permanent form the recurring language from the appropriation bills and added an unexplained change whereby the sale of Army weapons to members of rifle clubs was authorized only to NRA members.¹⁸

A final statutory change appeared in 1928, after the Army announced that the national matches would be held only in alternate years in order to free support units for field training during the summer.¹⁹ However, shooting interests persuaded Congress to require the Army to hold the matches annually and to submit annual reports to the Congress.²⁰

II. GROWTH OF THE PROGRAM

These annual reports and the testimony during appropriation hearings provide some information on the scope of the program for the past 40 years.

⁴ "Fact Sheet," *supra*, footnote 3.

⁵ See, e.g., Hearings on Military Establishment Appropriations before a subcommittee of House Committee on Appropriations, 78th Cong., 2d sess., pp. 503-05 (1944).

⁶ See S. Rept. 1291, accompanying H.R. 13446, 70th Cong., 1st sess. (1928); Hearings before Senate Committee on Military Affairs, 70th Cong., 1st sess., pp. 3-4, 11-20 (1928).

⁷ 32 Stat. 941 (1903).

⁸ 33 Stat. 986-87 (1905).

⁹ 36 Stat. 1058 (1911).

¹⁰ 38 Stat. 370 (1914).

¹¹ 39 Stat. 166 (1916); see Hearings before the House Committee on Military Affairs on H.R. 12766, 64th Cong., 1st sess., pp. 15-16 (1916).

¹² 39 Stat. 166, 211 (1916).

¹³ 39 Stat. 648 (1916).

¹⁴ *Ibid.*

¹⁵ See, e.g., Hearings on War Department appropriations before a Subcommittee of House Committee on Appropriations, 68th Cong., 1st sess., pp. 864-90 (1924); *Report, supra*, footnote 6.

¹⁶ See hearings, *supra*, footnote 15, p. 881; *Report, supra*, footnote 6.

¹⁷ See Cong. Rec., Mar. 27, 1924, pp. 5264-65, 5341-46; May 12, 1924, p. 8599.

¹⁸ 43 Stat. 510 (1924).

¹⁹ See hearings, *supra*, footnote 6.

²⁰ 45 Stat. 786 (1928).

In 1929 the National Board's appropriation was \$744,750.²¹ The major share, \$500,000, was to pay the expenses of 4,455 military and civilian participants in the national matches at Camp Perry, Ohio. The pay and subsistence of 1,868 Army personnel who conducted the matches were provided through ordinary Army appropriations.²² Support for the matches was suspended or greatly reduced from 1931 to 1935.²³ Beginning in 1952, the matches grew to a peak in the mid-1960's, when they cost an estimated \$3 million annually.²⁴ However, Army support was suspended in 1967, due to the Vietnam war and a shortage of funds.²⁵

In the last 40 years, the sale of military firearms to NRA members expanded even more, although this, too, was suspended during World War II. In 1929, 14,797 rifles and 408 handguns and 4.8 million rounds of ammunition were sold to NRA members. Weapon sales escalated with the end of World War II, when surplus stocks were enlarged. A witness at the fiscal 1960 appropriation hearings reported sales of approximately 95,000 rifles in the previous year.²⁶ The peak year appears to have been 1963, however, when approximately 126,000 rifles and 20,000 handguns were sold to NRA members at cost.²⁷ Since the beginning of the program, approximately 1 million military firearms have been sold to NRA members. The exact figure is unknown because the Army has not maintained records for all years. A tabulation of sales for the years for which information is available is shown in Table H-1.

TABLE H-1.—MILITARY FIREARMS SOLD BY ARMY TO NRA MEMBERS¹

Year	Handguns	Rifles	Shotguns	Other	Total
1921	4,079	5,877			9,956
1922	3,357	10,482			13,839
1923		5,470			5,470
1924	135	5,777			5,912
1925	1,449	8,265			9,714
1926	2,645	5,319			7,964
1927	482	8,766			9,248
1928	657	12,764			13,421
1929	408	14,797	2		15,207
1930		15,135	7		15,142
1931		20,111	7		20,118
1932	170	4,167			4,337
1933	129	3,268	1		3,398
1934	118	4,051			4,169
1935	231	6,111			6,372
1936	145	6,616	3		6,764
1937	154	7,032		183	7,369
1938	129	6,962			7,091
1939	80	6,747		35	6,862
1940	81	7,929		16	8,026
1941-57 unavailable ²					
1958	88	844			932
1959	9	6,071			6,080
1960	35,732	71,204			106,936
1961	38,806	78,023	4,329		121,158
1962	43,062	77,180	2,343		122,585
1963	19,551	125,574	1,813		146,938
1964	870	54,346	154		55,370
1965	6,874	44,654	10		51,538
1966	7,489	31,841	17		39,347
Total	166,930	655,413	8,686	234	831,263

¹ Staff report, "Firearms and Violence in American Life;" Newton and Zimring.

² The Army has advised the task force that regulations between 1941 and 1957 did not require keeping of these records.

²¹ Annual Reports for Fiscal 1929 from the National Board for the Promotion of Rifle Practice and the Director of Civilian Marksmanship to the Secretary of War; Hearings on War Department appropriation bill before the Subcommittee of the House Committee on Appropriations, 70th Cong., 2d sess., pp. 967-998 (1928).

²² Hearings on War Department appropriation bill before a Subcommittee of the House Committee on Appropriations, 74th Cong., 1st sess., pp. 449, 513-522, 656-660 (1935).

²³ Hearings on Military Establishment appropriation bill before a Subcommittee of the House Committee on Appropriations, 80th Cong., 1st sess., p. 1262 (1947); 81st Cong., 2d sess., p. 1197 (1950); 82d Cong., 2d sess., pp. 1440-1443 (1952).

²⁴ "Fact Sheet," *supra*, footnote 3.

²⁵ *Ibid.*

²⁶ Hearings on National Military Establishment appropriation bill before a Subcommittee of the House Committee on Appropriations, 81st Cong., 1st sess., p. 852 (1949).

²⁷ Memorandum from the Director of Civilian Marksmanship to the Army General Counsel, dated July 24, 1968.

Support for rifle clubs, including those in schools, has followed a similar pattern in the last 40 years. In 1929, \$275,000 worth of shooting equipment, including 2,426 rifles and 10 million rounds of ammunition, were issued to 1,625 clubs and schools. In 1965 approximately \$900,000 worth of such equipment was issued to 5,800 clubs,³⁰ including the new issue of 2,225 weapons and millions of rounds of ammunition.³¹

III. PRESENT PROGRAM

The Civilian Marksmanship Program has been drastically curtailed since 1967 as a result of Vietnam budgetary restrictions and doubts as to the cost of effectiveness of the program.³²

Support for the national matches has been terminated; equipment is issued only to junior members of rifle clubs and then only for the first 2 years of activity; and only national match grade rifles are being offered for sale, and only to active competitive marksmen.³³ The Army estimates that the cost of the program has thus been decreased from approximately \$5 million to \$136,750.³⁴

In addition, future NRA weapon buyers will be subject to a fingerprint and record check, as will officers of those junior rifle clubs which are eligible for support.³⁵ The value of this increased vigilance is illustrated by the fact that a spot check during 4 months of 1967 of 9,663 prospective NRA weapon buyers led to rejection of 75 such prospective buyers, largely because of prior criminal records.³⁶

IV. EVALUATION

Because the statutory basis for the Civilian Marksmanship Program has not been altered and a termination of the Vietnam war may lead to its reinstatement, the program must be evaluated as it was before the recent cutback. Some groups favoring the program believe any program which encourages gun use is good for that reason alone.³⁷ This judgment is grounded on the general assumption that trained riflemen are needed to defend against outside attack or internal disorder.³⁸ The principal evidence offered to support this assumption is the extensive civilian programs conducted by the Russians, Chinese, East Germans, and Swiss.³⁹

Whatever validity this assumption may once have had, it is difficult to imagine, in light of the present strength of American military forces, a foreign power successfully landing an army in the United States. The fact that the Chinese, Swiss, and East European countries are worried about such a threat may result from their exposed geographical position, their having less powerful military forces, or perhaps from their desire to remind their populace of the possibility of foreign invasion.

The assumption also suggests trained marksmen are a bulwark against internal disorder. Yet proponents of disorder are also armed,⁴⁰ and encouragement of gun use is perhaps as likely to escalate as to control disorder, unless the gun owners are part of disciplined groups such as the National Guard or the Swiss militia.

A. Gun club program

The strongest specific argument in favor of support of junior gun clubs is that it increases the quality of shooters entering the Army. A report by Arthur D. Little & Co. showed that only 385, or 3 percent, of the 12,859 basic trainees in its sample had gun club training, and yet they provided 40 of the 131 recruits who qualified on the rifle range with scores within 10 points of the top.⁴¹ It is unknown

³⁰ "A Study of the Activities and Missions of the NBPRP," report to the Department of the Army by Arthur D. Little, Inc., dated Jan. 1966, pp. 28-31. The under Secretary of the Army has indicated that this figure is understated by perhaps \$500,000. See Hearings, *supra*, footnote 3, at pp. 743-44.

³¹ DCM Memorandum, *supra*, footnote 27.

³² See *supra*, footnote 3.

³³ "Fact Sheet," *supra*, footnote 3.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ Hearings, *supra*, footnote 3, p. 765.

³⁷ See, e.g., statement by Franklin Orth of the National Rifle Association, prepared for presentation to the Subcommittee on Defense Appropriations of the Senate Committee on Appropriations, dated July 15, 1968, and the supplement to this statement, dated Aug. 1, 1968.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ See app. F.

⁴¹ See report, *supra*, footnote 28.

whether this 3 percent, which identified itself as having a special interest in guns, would have scored as well without the Army sponsored program. The Little study suggests that the higher a soldier scores on a standard rifle range, the better he is equipped for combat. Yet current Army "train fire" rifle instruction involves trainees' walking along a path and shooting at man-size targets which unexpectedly pop up at various ranges and in different directions.⁴⁰

In addition, the club program affects only 3 percent of Army trainees, 85 percent of whom are assigned tasks that do not involve their marksmanship abilities.⁴¹ The Army must insure that the results merit the expenditure—approximately \$900,000 in recent years.

Similarly, the Army must decide if the club program is needed as a source for marksmanship instructors, if not riflemen, in time of emergency.⁴² Although a shortage of instructors was alleged during World War I mobilization,⁴³ similar shortages have not been reported during World War II, the Korean War, or the Vietnam action.

B. National match program

It has been argued that the \$3 million spent each year in support of the national matches increases interest in shooting by both military and civilian personnel⁴⁴ and aids the policemen who attend marksmanship schools while at the matches.⁴⁵

In addition to a possible question as to the value of increasing civilian interest in shooting, it can also be asked whether the matches provide desirable training to military personnel, particularly since the military forces already hold their own annual shooting matches.⁴⁶ Moreover, in addition to their own small arms schools, police may obtain small arms training through the FBI. There is no apparent need for schools conducted at the matches to train police.

C. Sales program

The sales program is said to encourage marksmanship. Sales of .45 caliber pistols and shotguns, however, have at most a limited relationship to marksmanship. The most compelling argument for the sales program would seem to be that it allows the government the highest return on surplus military firearms and ammunition.⁴⁷ Pursuit of this objective would lead to selling surplus Army firearms at market value, not cost, to anyone who may legally possess them, not just to NRA members.

Summary

The statutes requiring the Army to assist marksmanship among the civilian population are based on assumptions of 50 years ago which may no longer be valid today. These statutes should be re-evaluated in line with current military requirements.

[The Washington Star, Sept. 7, 1975]

FROMME'S GUN SOLD AS SURPLUS BY GOVERNMENT

(By Jeremiah O'Leary)

The .45 caliber pistol with which Lynette Fromme allegedly tried to shoot President Ford was declared surplus and sold into the open market by the United States government.

Rex D. Davis, director of the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, told The Washington Star last night that his bureau traced the weapon at the request of the FBI.

"The FBI in Sacramento gave us the serial number and description of the weapon shortly after the attempt on the President's life," Davis said. "It has been traced. At the moment we know it was made in 1914, at the Rock Island

⁴⁰ Hearings, *supra*, footnote 3, p. 773.

⁴¹ See hearings, *supra*, footnote 3, p. 744-745.

⁴² See hearings, *supra*, footnote 3, p. 775.

⁴³ See e.g., Hearings on War Department appropriations before a Subcommittee on House Committee on Appropriations, 68th Cong., 1st sess., pp. 882-885 (1924).

⁴⁴ See statement by Franklin Orth, *supra*, footnote 35.

⁴⁵ See Hearings, *supra*, footnote 3, pp. 750-751.

⁴⁶ See, e.g., Hearings, *supra*, footnote 3, p. 753.

⁴⁷ See, e.g., Hearings on Military Establishment appropriations before a Subcommittee of the House Committee on Appropriations, 80th Cong., 1st sess., pp. 1727-1773 (1947).

Armory for the U.S. Army. We also know that it was declared surplus. Now we are trying to follow through on the history of the gun."

Davis said the weapon was traced through the Colt firearms company in Hartford, Conn., through the National Firearms Tracing Center. He said he did not know what year the pistol was declared surplus and to whom it was sold. He said it was Treasury policy to report such information only to the official agency requesting the trace. But Davis said hundreds of thousands of Colt 45s had been made for the government since the model came into existence in 1911.

Meanwhile, the FBI in Sacramento located the man who owns the pistol which Lynette (Squeaky) Fromme allegedly aimed at President Ford Friday. Officials declined to identify the owner. They said that no charges were being filed against him and that he evidently was aware of the whereabouts of the pistol.

This is the first known case in which an assassin has used a weapon made for the government and sold in the open market by the government.

There were four bullets in the clip but none in the chamber when Lynette Fromme aimed the weapon at the President in Sacramento Friday. The Secret Service here said it was not known whether Fromme had actually pulled the trigger. Even if the pistol was fully cocked, a spokesman said, the .45 caliber Colt will not fire until a slide mechanism at the top of the barrel is manipulated to shove a bullet into firing position.

Officials said Fromme had not pulled back the slide mechanism and may not have known how to load. The Colt 45 is different from revolver-type weapons, which require only pulls on the trigger to fire shots. The .45, which carries seven large bullets in a clip inserted inside the butt, weighs nearly 2½ pounds. It not only requires strength and some knowledge, it also has several safety features that make it rather difficult to fire.

Secret Service men know—that the weapon will not fire if there is pressure from a hand or body against the muzzle and that a finger inserted between the hammer and firing pin will also prevent firing.

Secret Service Agent Larry Buendorf, who moved in to prevent the woman from firing, injured the web of skin between his forefinger and thumb when he grappled with Fromme and may have been trying to prevent her firing a shot by that means. Sources said Buendorf was not sure whether the hammer pinched down on his hand. He could have cut himself on the sighting mechanism, which is sharp.

The .45 is a fearsome weapon that is deadly at close range because the bullets make large holes when they pass through a human body. Except in the hands of trained marksmen, it is inaccurate beyond 12 or 15 feet and it has a strong kick. The Army switched from the .38 caliber pistol to the .45 in 1911 because soldiers fighting the Moros in the Philippines found that the smaller pistol would not stop the charge of a bolo-swinging tribesman.

[The American Rifleman, September 1974]

DCM TO SELL SOME SERVICE GRADE M1'S

The Director of Civilian Marksmanship will release a limited number of Service Grade M1 rifles, Cal. .30-'06, for sale to eligible individuals this fall.

Price per rifle will be \$94.30 plus \$4.50 packing and handling charge, for a total of \$98.80. Transportation charges are extra and must be paid by the purchaser.

The DCM points out that the rifles, while in completely serviceable condition, are not new and should not be considered as such.

Applications for purchase privilege will be accepted by the DCM commencing Oct. 1, 1974, and will be processed in order of postmark. Applications postmarked prior to Oct. 1 will not be accepted and will be returned without action. No waiting lists will be maintained, and applications in excess of the number of rifles available also will be returned without action.

Applications should be addressed to: Director of Civilian Marksmanship, Room 1E053-West Forestal Building, Washington, D.C. 20314.

From past experience, the DCM expects applications will exceed rifles available by three or four to one and therefore urges applicants to follow all instructions precisely.

Application eligibility requirements as established by the Department of the Army are as follows:

The purchaser must be a citizen of the U.S., 18 or older and furnish proof of current NRA membership and current membership in a junior or senior club enrolled with the DCM and in good standing (State Association membership is acceptable).

The purchaser must furnish proof of current high power rifle competitive classification as provided by the NRA (classification card). An NRA Temporary Score Record Book for high power rifle is acceptable in lieu of the classification card if dated 1973 or 1974. Classification cards for any other type of competition will not be accepted.

No one who has purchased either a National Match M1 rifle or a Service Grade M1 rifle since Jan. 1, 1969, may purchase another rifle under this program.

Applicants should submit photostatic copies of all documents and cards when making initial application to the DCM. The DCM advises that these eligibility requirements cannot be waived and asks that no one apply unless he can meet all requirements.

A CHANCE TO STUDY MUZZLE-LOADER ARMS

One of the most unusual courses on the University of Northern Iowa's curriculum this fall is "Muzzle-Loading Firearms: Historical Significance and Modern Sport."

Designed and taught by Dr. George D. Glenn, Assistant Professor of Speech, the experimental course is part of the University's Program of Individual Studies—seminars which allow students to explore novel areas of interest.

Glenn says the idea behind the muzzle-loading course is that "a study of a past period's artifacts is one of the best ways of understanding that society and its people." He explains, "Where you try to maintain a rate of fire of a shot every 15 seconds with a flintlock Brown Bess musket, you begin to appreciate what a Revolutionary War soldier went through."

Glenn's class will also get into modern muzzle-loading, he says, and on a local range they will learn to load and fire "a wide variety of muzzle-loading weapons, ranging from reproductions of the miquelet lock through Revolutionary and Civil War period military and civilian weapons and up to modern-designed muzzle-loading rifles and pistols."

When cold weather comes, Glenn will move his class inside to work on both individual and group projects "such as research into particular kinds of weapons or particular periods of history, and including the making of shootable replicas of muzzle-loading rifles and pistols."

Pre-registration for fall has run so high that Glenn plans to offer the course next spring and hopes to take his class to the National Muzzle-Loading Rifle Association's Spring Shoot.

AMPUTEE BECOMES PISTOL COMPETITOR

After Greg Van Hartsvelt lost a leg in a motorcycle accident in 1970, he became interested in many new activities, including competitive pistol shooting.

A friend in Royal Oak, Mich., Van Hartsvelt's hometown, introduced Van Hartsvelt to pistol range shooting in 1971. By last year, Van Hartsvelt was shooting as a member of the Negaunee Rod and Gun Club Team in the NRA Postal League.

Steading himself on crutches while shooting has been no problem, although he often is aided by a table or other prop stationed in front of him.

Though not an avid hunter, Van Hartsvelt does have his sights set on collecting a whitetail in Upper Michigan this fall.

SMALL ARMS FIRING SCHOOL TO RETURN TO CAMP PERRY

The Executive Committee of the National Board for the Promotion of Rifle Practice has recommended the reestablishment of the Small Arms Firing School to be conducted during the National Matches at Camp Perry, Ohio. Consideration is also being given to conducting similar schools at state and regional matches.

Vice Admiral Lloyd M. Mustin (USN Ret.), chairman of the NBPRP Executive Committee, said that because civilians have very little opportunity to fire the

M16 or commercial equivalent, emphasis in the SAFS will be given to the M16 service rifle. The school is planned to take two days or less to cover instruction, practice firing and possibly record firing.

Admiral Mustin, a member of the NRA Executive Committee, said that in order to provide civilian competitors with increased opportunities to fire, thereby promoting interest in the M16, the DCM in cooperation with appropriate sections of the Army and NRA staffs will undertake to schedule "leg matches" in major NRA tournaments (state and regional championships) where such competitions are normally authorized. These will include time for familiarization with the rifle, and arrangements for issue of ammunition and rifles (temporarily modified to prevent automatic fire) to competitors wishing to use them, and arrangements to provide appropriate instruction. Competitors having personally-owned rifles meeting the description of the M16 in AR920-30, paragraph 25d as amended will be permitted to use them. This includes the commercial AR-15 rifle.

The Executive Committee also recommended that service-type ammunition, which is required to be used in Board-sponsored matches, again be issued without cost to competitors. In 1968 the Secretary of the Army instituted the practice of charging the competitors for ammunition, but that economy move has proven to have adverse impact on participation and therefore will be discontinued.

The revised description of the M16 or commercial equivalent substantially reduces the extent of modification allowed to the rifle. This is intended to encourage use of the M16 in competitions, so that the competitor using an armory issue rifle will not feel at a disadvantage with the competitor using a personal rifle. For the sake of clarity, the revised definition is reprinted in its entirety:

"U.S. Rifle, Caliber 5.56 mm. M16 series as issued by the U.S. Armed Forces, or the same type and caliber of commercially produced rifle, without bipod or grenade launcher, having not less than a 4½ lb. trigger pull. Sling cuffs and sling pads are not permitted. The rifle must be modified so as to be incapable of automatic fire without removing, replacing or altering parts. In all courses of fire and in all positions the standard 20-rd. or 30-rd. box magazine will be attached. The gas system must be fully operational.

External alterations to the barrel, upper and lower receivers, stock, hand-guard or pistol grip will not be allowed, except that a device may be attached to prevent selector movement to the auto position. The front and rear sights must be the standard design as issued by the U.S. Armed Forces on this rifle."

The National Trophy Rifle Course B has been established for the M16, with its own schedule of awards including credits toward "Distinguished Rifleman" designation. The course of fire has been changed from that originally described in The American Rifleman, and the new course described below will be used in the Small Arms Firing School and leg matches utilizing the M16:

NATIONAL TROPHY RIFLE COURSE "B"

Stage	Position	Shots	Range	Time	Type
1	Sighting shots, any position.....	2	200	2 min.....	Slow.
2	Sitting from standing.....	10	200	50 sec.....	Sustained.
3	Kneeling from standing.....	10	200	50 sec.....	Do.
4	Standing.....	10	200	10 min.....	Slow.
5	Sighting shots, any position.....	2	300	2 min.....	Do.
6	Prone.....	10	300	10 min.....	Do.
7	Prone from standing.....	10	300	50 sec.....	Sustained.

Notes: (1) All firing on standard SR target. (2) Ranges in yds. or meters conforming to existing range construction. (3) Magazine change required during sustained-fire stages. First magazine 2 shots, 2d 8 shots. (4) Sighters to be fired and recorded, but not included in record score.—C.E.H.

WASHINGTON REPORT

(By C. E. Clayton)

[Guus & Ammo, April 1975]

In a most bizarre gun control development, some high officials of the National Rifle Association of America are reported to be considering a plan that would license every gun owner in the country. What's more, the proposal would ap-

parently have the NRA be the Federal government's officially designated "licenser."

The secretive move, almost unknown outside the organization's highest levels, and totally unknown to its rank and file members, is said to have been blocked so far by the angry opposition of several members of the NRA's Board of Directors.

A copy of the draft proposal that we have seen would require all U.S. gun owners to obtain a so-called "Firearms Safety Certificate" before they could own or use any firearms. Further, the "certificate" would have to be carried on the person at all times while carrying or possessing a firearm.

The similarity in terms between the Federal "firearms safety certificate" proposal and the "hunter safety certificates" required of hunters in a number of states is only coincidental. The new "certificate" proposal that we have read is nothing more than a National Gun Owner's Identification Card, or license, wrapped up in a slightly different package. Most of the NRA Board members whom we contacted about the proposal either disclaimed knowledge about it or offered "no comment." Some, though, did allude to "possible discussions" of unspecified alternative measures to stronger anti-gun proposals.

Rumors of an impending shift in the NRA's gun control policy have been circulating for a little over two years after a top-level ad hoc group was set up to study the anti-gun and anti-hunting movements and recommended NRA action. Hopefully positive, pro-gun action and public relations campaigns on behalf of American gun owners.

Basically the draft licensing proposal would amend Title 18 of the United States Code—the title including Federal firearms control laws—inserting a new Section 926 which specifies that:

"(1) No person may require, possess, transport, ship, receive, carry or use any firearm in interstate or foreign commerce unless he has obtained a firearm safety certificate.

"(2) The firearm safety certificate must be carried on the person at all times while carrying or possessing a firearm."

As with some other gun control measures, the proposed "certificate" would not apply to: (1) Active or reserve members of the armed forces while engaged in official duties; (2) law enforcement officials engaged in official duties; (3) common or contract carriers transporting firearms for hire; (4) minors engaged in supervised instruction at a range or on their premises; (5) family members transporting firearms received by bequest or by intestate succession upon death of the gun's owner.

The suggested gun-owner "certificate" would be issued "to any person 18 years of age or older, or to a person under 18 years of age with the written consent of a parent or guardian, who successfully completes a course in the safe and proper handling and lawful use of firearms and ammunition. . . ." The "certificates" would not be granted to persons indicted for or convicted of a crime punishable by over one year in prison, fugitives from justice, persons who unlawfully use or are addicted to depressant, stimulant or narcotic drugs, adjudicated mental defectives or drunkards, or persons committed to mental institutions. The proposed "certificate" would be valid until revoked, cancelled or suspended by the issuing agency on ground that the "certificate" holder incurred one of the listed "disabilities."

Proposed issuing agencies would be the NRA itself or organizations or agencies that is authorized or "accredited" to issue the "certificates."

As for good news, Congress finally passed a black powder exemption bill allowing possession and interstate transportation of up to 50 pounds of black powder. Senator Birch Bayh's original version, S. 1083, would have allowed lawful possession and use of an unlimited quantity but the House-passed bill restricted muzzleloaders to 50 pounds and in the interest of expediency the Senate concurred. Most blackpowder organizations indicated that they are happy with the tenfold propellant increase.

The threat of a handgun ammo ban by the Consumer Product Safety Commission now looms larger than ever. On December 19 Judge Thomas Flannery, U.S. District Court, Washington, D.C., ordered the agency to consider the cartridge-ban application of the Chicago-based group Hand Gun Control, Inc. within 60 days. In refusing to consider the handgun ammo ban petition earlier last fall, the CPSC argued that Congress had not intended for it to have ammo ban powers. However, the judge stated that there was "absolutely no evidence"

at Congress intended CPSC regulation to include the labeling of small arms

ammo but not including banning the product. So the court is now forcing the CPSC's hand in what the agency itself has indicated could be a back-door handgun ban.

[The American Rifleman, March 1975]

"A FEW WORDS FROM. . ."

(By Maxwell E. Rich)

A number of NRA Members have written to me concerning the "Washington Report" in the April issue of *Guns & Ammo* Magazine. The writer of this report, which appeared under the by-line C. E. Clayton, claims that high NRA Officials "are reported to be considering" the licensing of firearms owners in a "secretive move."

Clayton's story is apparently based on his examination of an old draft proposal. He says that "most of the NRA Board Members" he contacted either denied knowledge of the proposal or declined to comment.

At no time did the writer telephone or otherwise communicate directly with NRA Headquarters or Officers. At no time, so far as we can discover, did he ask the persons in the best position to know whether there was any such proposal under consideration.

The following are the facts:

1. There is no firearms licensing proposal currently under consideration by the NRA leadership and no such proposal has ever been seriously considered by any high policy-making body of the NRA.

2. There is no question that such a proposal was put in writing and circulated to a limited extent within the NRA Headquarters. It may even have possibly come before one of our numerous committees. It definitely was not presented to the NRA Board of Directors for consideration at any time.

3. NRA Headquarters is literally showered with hundreds of different proposals from the many articulate persons in our membership of one million. Many proposals—on a very many subjects—are put in writing by members of the staff for study. We no more approve all these concepts than the Congress of the United States approves and enacts all of the many thousands of bills introduced in that body.

We have written to the publishers of *Guns & Ammo* asking them to publish these facts. *Guns & Ammo's* April "Washington Report" misled its readership.

MISTAKEN CRITICISM AIDS ANTIGUN DRIVE

A preposterous assertion that the NRA leadership supports a movement against the right to bear arms set off numerous inquiries and caused some doubts and disruption in NRA ranks earlier this year.

This bit of fantasy, published in a small bulletin, was written by someone who claimed that the editorial in *The American Rifleman* for January revealed, in his own incredible words, "the leadership of the NRA is supporting the LEAA" in a plot to take over local police and establish a national police force.

The allegation against the NRA is a mistaken assumption, as the writer could have learned simply by a phone call to NRA. The leadership of the NRA consists of a 75-man Board of Directors and an Executive Committee of 20. Neither has discussed the Law Enforcement Assistance Administration (LEAA) much less endorsed any such thing as a national police force. On the contrary, the NRA has always supported the principle of law enforcement by state and local governments. It recently increased its training activity in support of state and local police.

The misinterpreted editorial compared the no-win wars in Korea and Vietnam with the no-win war against crime in our streets. It pointed out that police are handicapped by some courts which repeatedly free criminals. The 12th of 13 paragraphs said in that context:

"That is why our national campaign against crime, (emphasis added) into which the federal government is pouring millions through the Law Enforcement Assistance Administration, needs court and public support if it is to succeed."

The paragraph referred to the national campaign against crime being waged by the FBI, Secret Service, 50 state highway patrol or state police agencies,

county sheriffs and deputies, county and city police, immigration and narcotics agents and many others. It was no more an endorsement of a national police force or LEAA than a mention that "it is raining" is an endorsement of floods.

The critic also took the NRA to task because NRA Executive Vice President Maxwell E. Rich testified for a so-called Land Use Bill in Congress. The bill in question, Gen. Rich has since stated, was not the original bill but an amended version which provided local option planning. "Our testimony," Gen. Rich said, "was confined to supporting funds for planning purposes to those states that requested such assistance."

The final anti-NRA jab referred to a former Associate Editor of The American Rifleman who resigned to become, in his own words, "a more active, aggressive and effective spokesman" for gun owners. Actually, he became the editorial head and Washington spokesman of another organization at an appropriate salary, a position giving him greater personal freedom to speak out.

The NRA has, in Gen. Rich's words, "wished him personal success, especially since our objectives are the same."

To make unwarranted statements that tend to divide the ranks of NRA Members and gun owners, as the bulletin writer did, is particularly unfortunate at a time like this when gun owners need to close ranks in support of the right to firearms.—A.H.

NRA FORMS LEGISLATIVE ACTION UNIT TO CHECK ANTIGUN MOVES

POWERFUL LOBBY BRANCH WILL OPPOSE DRIVE FOR GUN CONFISCATION

A powerful new lobbying unit designed especially to defeat anti-gun and anti-hunting legislation was created by the NRA Board of Directors at its Annual Meeting in San Diego, Calif., April 21.

The unit—the NRA Institute for Legislative Action—is headed by NRA Past President Harlon B. Carter as its full-time Executive Director.

Carter, a career law enforcement officer who retired after serving as a Regional Commissioner of Immigration and Naturalization, is known as a dynamic spokesman who maintains that the answer to crime is criminal correction, not gun curbs. He spoke for the NRA at congressional hearings while NRA President in 1966-67 and on many other occasions.

Unlike the NRA Office of Legislative Affairs, which it replaces, the new unit will function from NRA Headquarters under its own director. OLA, the predecessor, operated under a Headquarters staff chain-of-command. Carter will be responsible to the Board of Directors.

The Board of Directors authorized a special budget for the unit's operation during the balance of 1975.

NRA's Board of Directors created a committee of overview for this new activity, called the Institute Committee which will function on the policy level when the Board of Directors or Executive Committee of the Association are not in session. President Merrill W. Wright appointed the following members of the Board of Directors and Executive Council to the Institute Committee: Kenneth Lee Chotiner, Byron Engle, Keith M. Gaffaney, Alonzo H. Garcelon, Harold W. Glassen, and Irvin W. Reynolds. President Wright will chair that committee.

This new approach by NRA toward the problems of increasing activity among anti-gun institutions and legislatures began to take shape last winter. In January, the NRA Executive Committee adopted a resolution to set up the NRA Institute for Legislative Action unanimously. Among its January actions, the Executive Committee appointed three men from its members to search out and hire an Executive Director. It was that committee, consisting of Byron Engle, Allan D. Cors and James Reinke, which considered a number of persons and selected Carter.

In San Diego, the Board of Directors accepted the selection committee report and approved its selection of Carter for the post of Executive Director. The Board further took detailed action and amended NRA by-laws in order to incorporate the Institute for Legislative Action into the structure of NRA.

These amendments to the by-laws identify six planning responsibilities for the Executive Director of the Institute for Legislative Action: fund-raising, federal legislative activity, legislative action organization development and operation in the 50 States, legal defense capability, legislative information gathering and dissemination, and such other legislative activity as may be advisable. *The by-laws changes make it very clear that all activities of ILA will be under supervision of the NRA Board of Directors.*

HELP NRA ENLIST 100,000 NEW MEMBERS DURING JULY

LEARN HOW YOU CAN STRIKE A BLOW FOR FREEDOM TO BEAR ARMS

In a gigantic Fourth of July weekend effort to strengthen NRA Membership in support of the right to bear arms. The National Rifle Association is calling on active members and interested citizens to join in a nationwide "phone-in" on July 4-5-6 to add up to 100,000 new members.

Special telephones at NRA Headquarters in Washington, D.C., will be manned for instant handling of applications, NRA Executive Vice President Maxwell E. Rich has announced, and calls may be made free of charge Mondays through Fridays during the entire month of July.

However, Gen. Rich urges members to make their calls July 4, 5 and 6 "so we can make a real display of force to Congress when they return from their 4th of July vacation." Mail-in applications may also be made. Forms and a brochure describing the membership drive will reach all NRA Members shortly.

Simply dial 800-368-9500 on any one of the three days during the hours listed below. It is important, in using this toll-free service, that you call only during those hours. If you live in the Eastern, Central or Mountain time zones, call between 10 a.m. and 5 p.m. your time. In the Pacific time zone, call between noon and 7 p.m. Washington, D.C. metropolitan area residents only may dial 783-6605.

Alaskan and Hawaiian members please mail in new members because the telephone company cannot extend toll-free service outside the contiguous 48 states.

The unprecedented membership campaign is designed to bolster the ranks and the national influence of the NRA, Gen. Rich said, in its growing battle to combat legislation that would encroach on the right of law-abiding citizens to own and use firearms.

"This effort is a major part of a program calculated to place our organization in an indisputable position of supremacy despite the intense efforts of anti-gun elements to confiscate privately-owned handguns and to harass all gun owners into giving up all firearms," Gen. Rich said.

"The NRA is on the move as never before and already has impressive momentum. A nationwide fund solicitation in support of NRA legislative efforts is producing splendid results. This fund-raising, like the membership campaign, is a guarantee for the future of American firearms ownership."

Under the procedure for telephoning memberships during the campaign July 4-5-6, active members endorsing new members should be ready with five pieces of information. Prospective new members who call in should have answers to three questions.

As an active NRA member endorsing new members, you tell the NRA operator:

1. Your name, address, and NRA code line.
2. The total number of new members you are enrolling during this call.
3. Which NRA gift(s) you have chosen from the gifts shown in a brochure being sent to you.

4. Whether you want to renew in advance and for what term of membership. (Your own renewal counts toward NRA gifts!)

5. Your Master Charge or BankAmericard number and the valid date of the card to change your advance renewal. Then, turn the phone over to the new member(s) for the following information:

As a prospective new member, tell the NRA operator:

1. Your full name, age, and address.
2. Type and term of membership wanted. (Senior, Junior, Associate—1, 2, 3, or 5 yrs. See p. 6, this issue.)
3. Master Charge or BankAmericard number and the valid date of the card to charge NRA dues.

NRA-affiliated clubs enrolling new members are asked to have a club officer make the call and give his name, title and club number as well as the data on those to be enrolled. By this procedure, the club is assured that the new members receive club rates and that the club earns award coupons.

BOARD TO CONSIDER LEGISLATIVE MOVE

The NRA Board of Directors, meeting at San Diego, Calif., April 21-22, will be asked to pass upon whether the NRA's legislative office should be set up as a separate legal or lobbying arm operating along lines like the AFL-CIO's COPE (Council on Political Education).

The NRA Executive Committee approved such a move Jan. 12 after hearing Rep. John D. Dingell (16th Dist., Mich.) an NRA Director, express the view from "inside Congress" that such an arrangement would be far more effective in contending with the new deluge of anti-gun legislation on Capitol Hill.

A committee of NRA Directors, J. E. Reinke, chairman; Allan D. Cors and Byron Engle was appointed to further the move and an initial NRA appropriation of \$500,000 was authorized. The committee met repeatedly and reported some progress.

Subsequently, however, NRA counsel advised that the program could not proceed without changes in the bylaws, which can be made only by the Board of Directors, according to NRA President C. R. Gutermuth. Dr. Gutermuth commented that "there is complete agreement by all concerned that we should move forward in an aggressive and forthright manner to establish the kind of action program that the Board of Directors desires."

NEW MEXICO

Senate Bill 64 by Fred A. Gross would prohibit the carrying of loaded firearms in a vehicle.

NEW YORK

Senate Bill 460 by Jay P. Rollison, Jr., and Assembly Bill 529 by Emeel S. Betros would exempt an accredited collegiate pistol team from the requirements of the firearms law while transporting handguns through the state for participation in shooting competition. Senate Bill 461 by Rollison and Assembly Bill 530 by Betros would provide that a license issued outside New York City is valid.

INTERNATIONAL SOVIET UNION

Despite very strict gun controls in the Soviet Union, an estimated 8 to 10 million hunting rifles are hidden away in private hands and a black market in all kinds of firearms thrives, according to an item in *Parade* magazine for Feb. 16, 1975.

CARTER READY TO TACKLE NRA'S FOES

Gun ownership in America is "menaced as never before by very radical gun control proposals," Harlon B. Carter, Executive Director of the NRA's newly-created Institute for Legislative Action, warned in an interview at the 1975 NRA Annual Meetings in San Diego, Calif.

The former Chief of the U.S. Border Patrol and past President of the NRA (1966-67) expressed confidence, nevertheless, that supporters of the right to bear arms would win out over their opponents.

The task facing the new NRA legislative action unit is twofold. Carter said. "We must blunt whatever there is moving to deprive us of firearms, and we must move affirmatively to convince and lead legislators, public figures, and the media to see things in a more reasonable light wherever possible."

Carter moved from Arizona and went to work at NRA Headquarters in Washington, D.C., April 28, within a week after being confirmed in his new position by the NRA Board of Directors. He said he was extremely pleased with what he termed "an intangible but very important factor." That is, "that it is apparent that the entire Board of Directors, the entire staff of the NRA, everybody is behind us. This is an overwhelming support situation."

Carter sees the gun control issue as a smoke screen, "a cop-out to deceive people into believing something can be done about crime in the absence of courage on the part of the leadership to face the facts: that only 2 or 3% of the crimes committed in America are ever punished."

But the people are not so easily deceived, Carter said, "The difficulty is that crime pays," he said "and the people know it. Our membership knows it, being a cross section of the American people. And so long as crime does pay, the people are going to be unhappy and crime will continue. Something has got to be done to control criminals and not dilly-dally around with inanimate objects like guns. This is why I say the whole panorama of gun control is simply a social and political cop-out."

Carter feels NRA Members and law-abiding Americans in general are deeply troubled by crime control proposals which they know are irrelevant. "For in-

stance, every time you get into one of these gun control discussions, our opponents instantly point out that most gun murders are committed among friends and relatives," he said. "Now this is the issue. This is a red herring. This not what causes Americans to fear to walk the streets of big cities at night. Every American deep in his heart knows you can never control murders between drunken and jealous spouses and drunken or irrational friends. Every American in his heart knows that, so as he listens to his political leaders and reads his press he is disenchanted."

Carter's dislike of legal excess includes crime control as well as gun control, and he stated emphatically that "stop and frisk, no-knock entry, wire taps—these things are menaces to our freedom and menaces to the rights of decent people to own firearms. When I was in law enforcement, I absolutely forbade my men, verbally and in writing, to use no-knock." Officers under his direction were justified in using no-knock entry, he said, "only to save a life or to arrest a person who had committed a felony in an officer's presence and was escaping."

The anti-gun forces in the U.S. are "greatly in the minority," Carter said. "They are a noisy few, but they have behind them instruments by which they make tremendous noise." Again he stressed the basic irrationality of the anti-gun forces. "Violent crime is their purported issue," he said, "but since the proposals they make are not relevant to any cure, one wonders whether guns or violence is their issue. Crime is least in those sections of the country where lawful gun ownership is the highest, and most of our citizens realize this. Reasonable men therefore ask themselves: what is the real purpose of the anti-gun crowd? What do they really seek? They speak of 'gun murders' as opposed to murders. Therefore they reveal an objection to guns apart from any objection to murder."

Though the main thrust of the Institute for Legislative Action will be to reach those many Americans who are uncommitted on the gun issue, Carter stressed that the unit also has a duty to give moral support to NRA Members. "Don't forget this," he said. "Our own membership, our own people, the sportsmen of America, the 20-odd million who buy hunting licenses every year—they need to feel there are responsible instruments in society which are on their side, leading their battle for them. They need a new projection of enthusiasm and inspiration, and we're going to try to furnish that projection in a responsible and dignified manner."

"Authoritarian, totalitarian proposals can only be defeated by better ideas," he concluded. "We have to have better ideas and a superior projection of those ideas."

HELP FIGHT THE ANTI-HUNTING AND ANTI-GUN GROUPS THAT THREATEN TO DESTROY THE SHOOTING SPORTS AND TAKE AWAY YOUR FIREARMS

CONTRIBUTE TO NRA'S OFFICE OF LEGISLATIVE AFFAIRS TODAY!

Established by the NRA Board of Directors to respond to and protect the interests of our members. The Office of Legislative Affairs (OLA) is a separate, permanent, national lobbying organization to act directly for and with you on federal, state, and local government levels.

With your financial help, the OLA will lobby on your behalf and develop programs to defeat legislation that threatens your right as a firearms owner, hunter, competitive shooter, or collector. OLA will support legislation favorable to NRA's goals and objectives.

There will not, however, be any direct political contributions—nor will the OLA in any sense be a political action unit.

You Need OLA to Fight for your Rights . . .

OLA Needs Your Support to Get the Job Done!

OLA's registered lobbyists are on Capitol Hill representing your interests such as exempting .22 caliber rimfire ammunition from sales recordkeeping requirements of the 1968 Gun Control Act and removing the five-pound limitation on black powder from the Federal Explosives Law of 1970.

OLA has distributed legislative bulletins to NRA Members in Rhode Island, Connecticut, Maryland, Massachusetts, Georgia, Ohio, and Minnesota. It has helped unite sportsmen's organizations in Massachusetts, Michigan, and Virginia to fight restrictive legislation.

By contributing to OLA, you contribute directly to the effort to protect your rights and preserve the shooting sports. All funds are used to strengthen the lobbying effort.

To mail your OLA contribution postage free, detach and fold the form below as indicated.

☐ Yes, I want to contribute to the work of the Office of Legislative Affairs.

Enclosed is my contribution of \$-----

(Contributions are not tax deductible)

Name:

Address:

City:

State:

ZIP:

Please make checks payable to the NRA Legislative Fund.

If You Want to See The Shooting Sports Survive . . . If You Want to Own and Use Firearms In the Future—You Have A Stake In The Success of NRA's Office of Legislative Affairs

From county and city governments all the way up to the Halls of Congress, there is a concerted campaign to ban the shooting sports and firearms. You've read about it in the newspapers, heard it on the radio, seen it on TV.

Now, you have the chance to make your voice heard where it counts most—through NRA's Office of Legislative Affairs. Unite with your fellow firearms owners, hunters, competitive shooters, and collectors to support OLA. Get the help you need on federal, state, and local levels.

Your Contribution to OLA Is Your Vote to Help Protect Your Rights.

THE SILENT PROTECTORS

Last year *The American Rifleman* published in its "Armed Citizen" columns 112 actual instances in which the mere presence of a firearm in the hands of a resolute citizen prevented crime without bloodshed. Every case came from news reports confirmed by police records in 97 communities across the land. Among these were Seattle, Kansas City, San Jose, Atlanta, Baltimore, Dallas, Detroit, El Paso and 89 others.

Every one chronicled a triumph of a self-reliant American with the "cool," to use the current slang, to stop a crime without shooting anyone. They prevented robberies and quite possibly rapes and murders. They were able to do so because they were armed—with guns.

Now on the 100th anniversary of the National Rifle Association of America, we would like to ask a simple question:

Can anyone show us where 112 crimes have been averted by the Federal Gun Control Act of 1968?

Those who uphold this act and would further disarm law-abiding American citizens owe it to the American public to explain themselves.

Can they say why it is that crime continues to rise under the 1968 act instead of decreasing?

Without putting words into overworked mouths, we can surmise that they will say the answer is a need for even stricter gun laws.

In all honesty, we must disagree. The answer is a need for many things, but laws that deprive decent persons of self-protection are not among them.

The answer may be a need for more uniformed policemen patrolling our crime-infested big cities. Philadelphia in chopping down its crime rate provided prima facie evidence of this. The Washington, D.C., police department, recruited to full strength for the first time in many years, also brought about a distinct reduction in crime by putting more properly-trained patrolmen on the streets. Some other communities have succeeded, likewise.

The answer may be a need for longer sentences that keep habitual criminals in jail instead of allowing them to whiz through courtrooms with a speed that makes justice somewhat like a revolving door.

The answer may be the need for broad rehabilitation programs that reorient all but the most hopeless hardened criminals (if there are such), and end the cycle under which many criminals find themselves compelled to return to crime for lack of anything better.

The answer may be an end to flabby permissiveness and a "lie down and quit" attitude on the part of some local courts and authorities whenever unruly, lawless elements "make a fist" at them.

The answer may be a return to a traditional American creed recognized and practiced by every good NRA Member, of respecting the rights and way of life of all respectable fellow Americans.

It is proper to discuss all this on the 100th anniversary of The National Rifle Association of America, an organization founded to promote marksmanship and broadened to support conservation and national improvement, because the legitimate ownership of firearms is an integral part of our Nation. This the NRA recognizes and champions.

As shown in this magazine and elsewhere, the mere presence of firearms in the hands of responsible Americans can serve to curb violence. The Federal Gun Control Act of 1968 apparently can't.

There is reason to believe and hope that the next Congress will recognize this fact and repeal the 1968 Act, at least insofar as it places burdens and restrictions on individual law-abiding gun owners.

That, coupled with the mandatory penalty laws that the NRA has long advocated for criminal misuse of guns, will do more to curb crime than the senseless provisions of the 1968 act which tend to stamp out legitimate gun ownership while criminals run riot and thumb their noses at all laws.

150 HANDGUNS GIVEN HAZARD TESTS

ADMINISTRATION REVEALS UNPRECEDENTED SCIENTIFIC RESEARCH ON SAFETY FEATURES

(By Ashley Halsey, Jr.)

The Nixon Administration has authorized the most extensive laboratory tests of commercial handguns ever conducted in the United States to determine whether any are so hazardously made that they should be taken off the market.

The details were given at a general session on firearms laws at the NRA Annual Meetings in April by G. Gordon Liddy, Special Assistant to the Secretary of the Treasury. Liddy, an attorney, conservationist, and pistol shooter, reminded the audience that the Administration opposed gun registration and firearms owner licensing, and that it did not confuse the 40,000,000 law-abiding gun owners and sportsmen with criminals."

Aid to gun owners

The Administration has already aided gun owners, he continued, by exempting all small arms ammunition and ammo components from its 1970 Explosives Control Act and by supporting amendments to the 1968 Gun Control Act which exempted rifles and shotgun ammunition from record keeping requirements and which are expected to do likewise for .22 rimfire ammunition.

There have been so many published allegations against so-called "Saturday night specials" or crudely-made handguns, however, that he said the Administration felt compelled to make a scientific inquiry into the situation.

To this end, Liddy said, the Treasury Department has sent some 150 handguns of all kinds to the H. P. White Laboratory, an independent firearms and ballistic laboratory at Bel Air, Md., for an unparalleled series of tests which are still in progress.

Whatever the outcome, he continued, there is no intention of establishing a Federal proofhouse in the United States, and spokesmen for firearms organizations, manufacturers, and others in the outdoors field will be consulted as to any possible action to be taken.

If the allegations that some handguns are dangerously crude prove true, Liddy said, "we have an obligation to see that products of a hazardous nature are not put on the market. We would like, in that case, to evolve an objective standard which can be applied equally across the board."

The handguns being tested range from high-priced precision target pistols to the kind of small cal. .22 rimfire revolver that sometimes sells as low as \$9.95. Included are revolvers, semiautomatic pistols, and single-shot pistols.

Not every model of every make of handgun is included in the program, but two of each model being tested are being put through the research. Liddy confirmed for The American Rifleman that the tests embrace the following:

Complete micrometer measurements of all parts, especially moving parts, before and after testing.

Dye penetration tests to check for invisible defects which may be revealed in the course of firing.

Use of the highest velocity commercial cartridges of each caliber being tested, after a proof testing with special proof loads.

The function firing of approximately 1,000 rounds of commercial ammunition in each arm tested.

Hammer-drop tests from a height corresponding to the normal height at which the arm would be held, to determine whether it will discharge accidentally if dropped.

"What we seek to determine is the point at which the firearm will cease to function or will malfunction in a hazardous manner," Liddy explained.

"Among other things," he said later to *The American Rifleman*, "we feel that anyone purchasing a handgun for legitimate purposes is entitled, just like the purchaser of any other machine or instrument, to know that it will operate safely and reliably."

In the course of his talk, he assured the NRA audience that if any handguns "are ruled out, it will not be simply because they are low-priced."

Liddy also mentioned the fact that the present Administration had opened a two-way channel between the White House and firearms field for "open, clear dialogue" on all matters concerning private firearms ownership.

"High-ranking members of the White House Staff," he pointed out, "have already held two mutually helpful conferences at the White House with representatives of firearms organizations, manufacturers, and gun publications."

At the first of these, in January, The National Rifle Association was represented by Executive Vice President Maxwell E. Rich, NRA Secretary Frank C. Daniel, and Editor Ashley Halsey, Jr.

Panel program

Liddy, a former New York City attorney who served as an artillery officer, FBI bureau supervisor, and counsel for conservation groups before taking his present post in April, 1969, shared a panel program with Congressman John D. Dingell (16th Dist., Mich.), Congressman John P. Saylor (22nd Dist., Pa.), and J. J. Basil, director of the NRA Legislative Information Service.

Rep. Saylor urged sportsmen to take a positive approach toward getting the 1968 Gun Control Act repealed instead of remaining on the defensive.

Rep. Dingell warned that unless sportsmen were ready to pay higher taxes to control more hunting land, American hunting might come under paternalistic controls such as limit hunting in Europe.

WHITE HOUSE FROWNS ON SWEEPING NEW GUN LAWS

MOVES TO REGISTER OR SEIZE GUNS LIKELY TO GO UNENCOURAGED

The Nixon Administration, while deeply concerned over the misuse of firearms, apparently regards recent proposals for Federal firearms registration and handgun confiscation as impractical and undesirable. Any firearms legislation endorsed by the Administration in the present Congress is likely to take other approaches more acceptable to American sportsmen.

That much was clearly indicated at a White House conference on firearms held in mid-January shortly before Congress met.

At the invitation of the White House, spokesmen for The National Rifle Association of America met with Administration staffers in the Roosevelt Room across from President Nixon's office. (Mr. Nixon was away at the time.)

Discussion group

Three members of the White House staff, plus representatives of the Treasury and Justice Departments, participated in a general off-the-record discussion. The NRA was represented by Maj. Gen. Maxwell E. Rich, NGUS (Ret'd), Executive Vice President; Frank C. Daniel, NRA Secretary; and Ashley Halsey, Jr., Editor of *The American Rifleman*. Representatives of other firearms publications and organizations also attended. The session was described as the first of a series at the White House on the subject of firearms.

Gen. Rich, who is also chairman of the NRA Firearms Legislation Committee, stated that the NRA opposes restrictive laws that strike at the legitimate ownership and legal use of guns, and feels that any Federal measures ought to be directed against the unlawful use of firearms in crime. Mr. Daniel cited the principal objectionable features of the 1968 Federal Gun Control Act as viewed by

the NRA. Editor Halsey presented the editorial views published in the magazine and summarized them.

After an informal discussion which lasted for more than an hour and a half, the NRA delegation left with the following impression:

The Nixon Administration is inclined to consider specific measures to reduce the criminal use of firearms, especially small, concealable non-sporting arms, rather than to follow the previous Administration's broad approach which resulted in the 1968 act with its numerous restrictions on law-abiding gun owners.

4 COMMISSIONS: THEIR COST AND ACTION

Name	Gun recommendations	Cost
Presidential Commission on Law Enforcement and the Administration of Justice (1965-67).	State firearms registration, with Federal backing..	\$1,059,000
National Advisory Commission on Civil Disorders (1967-68).	Supported registration and licensing proposals....	1,860,000
National Commission on the Causes and Prevention of Violence (1968-69).	Handgun confiscation, long arms registration, owner licensing (majority recommendation).	1,600,000
National Commission on the Reform of Federal Criminal Laws (1966-71).	Same as above.....	1,850,000
Total cost.....		\$5,369,000

¹ Final expense of latest commission not yet on record.

Despite a noticeable change in Washington to an atmosphere more favorable to legitimate private gun ownership, it would be short-sighted and over-confident to rule out the possibility of a hard fight over gun legislation in the future. Regardless of any Administration stand which may be made on the subject, Congress can initiate independent action on the subject if it sees fit.

The Administration is looking further into possible approaches to the problem of the so-called "Saturday Night Specials", or small, crudely-made handguns which, according to some law enforcement agencies, have figured in a growing number of shootings and robberies. Annual production of this type of non-sporting arms has been placed as high as a million handguns a year in some quarters.

Explosives field

Having taken a stand which resulted in the exemption of small-arms ammunition and components and five pounds of blackpowder from the 1970 Federal Explosives Act, the Administration intends to continue to exercise an interest in the explosives field in such a way as to curb bombings without impairing the sporting use of firearms. Apparently no further legislation, however, is contemplated at this time.

Commenting on the White House conference, Gen. Rich said: "It has become quite evident that the views of the nation's law-abiding gun owners are to be given, and are being given, full consideration within the present Administration. This can be taken as a hopeful sign for the future. It would be a serious mistake, however, to assume that all of our legislative worries are past. Firearms ownership will continue to be an issue for years to come. Only by recognizing this can we protect our rights."

The latest assault on private firearms ownership occurred when the National Commission on Reform of Federal Criminal Laws, created in 1966, rendered its final report Jan. 8, 1971, on a variety of proposed changes in the U.S. criminal statutes.

When the report got around to firearms, on page 246, it stated that an unrevealed and unidentified "majority" of the commission favored Federal registration of all firearms and confiscation of privately-owned handguns. Some of the 12-member commission rejected this concept.

Among the arguments listed as supporting the "majority view" are the following:

"Crimes of violence and accidental homicides will be markedly reduced by suppression of handguns, which, on the one hand, are distinctively susceptible to criminal and impetuous use, and, on the other hand, are not commonly used for sporting purposes as are long guns. State control is ineffective because of differing policies and leakage between states. A comprehensive and uniform registration law will facilitate tracing a firearm when it has been used for criminal purposes."

Cited as "arguments supporting the opposing view" are the following:

"Suppression of handguns will not reduce the incidence of violent crime since criminals will probably still be able to obtain them while law-abiding victims will not have them for defensive purposes. National suppression of handguns would be unenforceable on the basis of present and foreseeable resources; and effective enforcement would tend toward the creation of a national police force, which is undesirable. A national law would violate principles of federalism and mandate similar treatment of vastly different problems. Comprehensive registration would tend to lead toward confiscation, which is undesirable."

Senators opposed

All three U.S. Senate members of the commission opposed the registration-confiscation proposal and shared the minority opinion, *The American Rifleman* learned on good authority. They are Sens. Roman L. Hruska (Nebr.), S. J. Ervin (N.C.) and John McClellan (Ark.). Also on the side of firearms owners was the commission vice chairman, Rep. Richard H. Poff (6th Dist., Va.), from all reports. The other two House Members were Reps. R. W. Kastenmeier (2nd Dist., Wis.), whose position was not known but who has supported a number of gun control bills, and Rep. Abner Mikva (2nd Dist., Ill.), author of bills at the past session and this one which would lead to ultimate elimination of private handgun ownership.

It was understood that one of the three Federal judiciary members of the commission, U.S. District Judge John Higginbotham, of Philadelphia, was not present when the firearms vote was taken. Positions of the other members of the commission could not be determined. Personnel connected with the commission in Washington, D.C., met all inquiries with statements such as "we were sworn to secrecy" on all the commission voting decisions. The official printed report divulged nothing.

From the composition of the commission and staff, however, it was clearly evident in the capital that the "majority" recommendations for drastic firearms law represented a repetition of anti-gun views expressed in 1969 in the majority report of the National Commission on the Causes and Prevention of Violence, a body which also was created under the previous Administration.

IRS RULES NRA CENTER GIFTS TAX DEDUCTIBLE

The Internal Revenue Service has ruled that contributions to the NRA Special Contribution Fund to develop the NRA Outdoor Center at Raton, N.M., are tax-deductible by the donors.

The IRS so notified the fund by letter dated April 30, 1974, from its Exempt Organizations Branch. The letter also said that the fund itself is exempt from paying Federal income taxes.

"This paves the way for those interested in building a truly fine center, featuring not only marksmanship training but conservation research and education of young people in the outdoors, to make contributions and to take tax deductions accordingly," Maj. Gen. Maxwell E. Rich, NRA Executive Vice President, commented.

"We are intent on saving and preserving some 35,000 acres of America for the American people, and the IRS decision comes as a distinct help in reaching that objective."

The Special Contribution Fund was established by resolution at the NRA Members' Meeting March 31, 1973, and affirmed by the NRA Board of Directors April 2. As set up, it is separate and distinct from NRA operations and is organized exclusively for charitable, educational and scientific purposes.

The constitution of the fund further explains that:

"No part of the net earnings of the Fund shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the Fund shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Third hereof.

"No substantial part of the activities of the Fund shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Fund shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. . . ."

Donors to the fund may deduct contributions from Federal income taxes. Trusts, legacies, devises, transfers or gifts are deductible for Federal estate

and gift tax purposes, if they meet conditions of the IRS Code. Donations should be sent to the NRA Special Contribution Fund, 1600 Rhode Island Ave., N.W., Washington, D.C. 20036.

[From the Guns & Ammo magazine, February 1974]

CRIME CONTROL—GUN CONTROL—RACE CONTROL???

(By Harlon Carter)

Most of the cries for law and order today are fashionable, but terrifying. Because we oppose pornography we permit the government to decide what we can read, see or hear. Because we oppose the criminal use of drugs we permit the agents of the government to enter our homes without knocking. Because we oppose most any kind of crime we permit the government to tap our phones and bug our homes and offices. Because we have race problems, and seem confused as to solutions, loud voices demand that the government be the only legal owner of firearms.

Those demanding that government be the only legal owner of firearms have their position on the reported prevalence of crime. Crime is their only position, their only reason, presentable in public. Crime fighting has a vote-getting appeal. Any other reason which might exist for seeking more gun control will cost a politician votes and its a rare one who will permit his integrity to interfere with his vote-getting.

We should ignore those who say government should be the only legal owner of firearms in order to prevent accidents or to prevent impulse homicides among families and friends. It is obvious that accidents and impulse homicides are not what prevent decent people from safely walking the streets of our largest cities.

Recently in the Washington Post it was said, "Crime a hundred years ago was highly concentrated in certain areas. Now its everywhere. . . ." Characteristically, the Post lacks the courage or else the knowledge, to report why this was true. It is conspicuous that 100 years ago blacks were few in the North and in the South they had the freedom of the streets only in their own section of town. Today blacks can go everywhere and in the areas of our largest black populations no one, black or white, has the freedom of the streets at night.

That fact reflects, bluntly, the racial nature of our violent crime and we cannot expect the ideologies of our press or our politicians to explore and expose it. Inasmuch as violent crime is given as the basis for the anti-gun effort and inasmuch as violent crime in this country is overwhelmingly by blacks, this would mean exploring and exposing the racial characteristics of the anti-gun effort. The press is pretty well dedicated to a single ideology which doesn't include the concept of democratic possession of arms and it would be a rare politician indeed with the guts for it.

If a man believes the availability of guns is a cause of the frequency of murder in this country, and if one of our racial components figures overwhelmingly in the crime of murder, then when a politician speaks of gun control he is actually speaking of race control. Is he not? Of course, public figures will vehemently deny they mean any such thing. Consequently, to avoid the appearance of such an impossible thing they must move to impose controls on all of us for the violence committed by a few of us.

Over 60 percent of our homicides are committed by about 10 percent of us and that 10 percent is black. Respectable black men resent that fact just as much as respectable white men do.

The crime in this country preponderantly committed by blacks is preponderantly—over 90 percent of it—committed against blacks. There are whites who believe interracial crime is increasing and that blacks see crime on whites as a compensatory thing. Carl Lawrence, President of New York City's NAACP answered them well: "Those who commit crimes are out to get something for nothing, and they're doing the same to black people . . . black leaders became alarmed first . . . police and the middle class white didn't listen so long as it was just a Harlem problem."

When Lawrence went on to advocate that "good people" arm themselves and "take the streets away from the hoodlums" he was not encouraging racial strife. He was speaking to both blacks and white in defense of decent black people.

Imagine, however, in regard to such self defense for a black man, the existence of a national individual firearms licensing requirement. Imagine further, if you can, a black man in Dallas, Jackson or Mobile, or in New York, Phila-

delphia, or Chicago, receiving a license under such a requirement. Police administrators in those cities, and dozens of others, not being able to grant or deny a license on the basis of skin color, would deny a license to all men whether black or white. Naturally, this is one truth to be loudly, perhaps angrily, denied. Politics require its denial. But every ordinary citizen in these democratic states knows it's true.

The black man will quickly see he is being used as a silent instrument to obtain complete gun control. He gains nothing and he is at once the victim of tyranny and the instrument by which tyranny is imposed on the white man.

It is no satisfaction to the black man, seeking more of America's bounty, that instead of his getting more the white man gets less and he gets nothing. Out of this, realization too, comes turbulence, violence and crime.

Of course, as it was with alcoholic beverages under the Prohibition Act, the kind of people who should not have guns are by definition the kind of people who cannot be prevented from having them. If another prohibition law is to serve as some kind of referee by which the criminals on one hand and the decent people on the other are idealistically equalized by all being weaponless, then that prohibition law will also be a failure because criminals cannot be prevented from having weapons. Blacks will reject that they be the political victim of such a law the same as will whites. Decent people, black or white, should maintain that they be armed at least as well as criminals.

During the recent flurry of race killings in Boston, Deputy Police Superintendent Leroy B. Chase, a distinguished black man, said: "Fighting in the schools accelerates every two years at election time. Politicians will put the city on a keg of dynamite just to win an election". Chase also said, "We have vicious crimes like this all the time in this jungle . . . how come no one's been so upset until now?"

And a young black woman: "Look how the white establishment is (crying out in a case wherein blacks killed a white woman). When somebody knocks off a black dude, it is just another 'nigger'."

Boston, dearest Boston, you sound like a pre-1954 Southern town.

And then, at the same time, along comes Dr. David Abrahamsen, a New York City psychiatrist, who says what we need is a gun law. Listen to this white man.

" . . . There still lives a frontier spirit which makes us want to be like the pioneers who, as you know, acted directly and often violently to solve their problems. . . . Free access to firearms . . . has a very strong connection with the high rate of murder. . . . Since . . . the war in Vietnam, many more firearms are being brought illegally into this country. Some of them are much more efficient in killing, too, than firearms of the past."

As so often happens, psychiatrist Abrahamsen seems to have the usual prejudice against firearms and knows nothing about them—not short-barreled shotguns anyway.

But let's not hurriedly leave this gentleman who recently received several pages in one of our most popular magazines. He illustrates my point too well, and he also added this gem:

"A person who kills someone else also, unconsciously, wants to kill himself but doesn't dare to."

I have personally been around a lot of killing in my time but *that* is the first time I ever heard anything so utterly ridiculous. Most men who kill do so because they fear getting killed. How infinitely asinine to suggest a desire for suicide on the part of a man who's only trying to insure he lives. It's a wonderful thing, and it gives great hope for the future of our country, that the ordinary man is possessed of so much more sound judgment than our intellectuals. Of course, as increasing numbers garner the so-called education offered today, the despair of some men for the future is understandable, perhaps justified.

In Southern cities, where college professors have lately discovered violence, it has been only a few years since most murders were cavalierly ignored, as is said to be true in Boston today: "Some nigger killed another'n last night."

It has been reported that the number of firearms homicides in Chicago jumped 169 percent between 1965 and 1970. Among them, gun crimes by black males age 15 to 24, went up 444 percent with the usual 90 percent being black against black. Small wonder. Chicago is the place where it is also reported 98 percent of those arrested for burglary and 2 out of 3 of those arrested for murder are set free. Chicago is also the place where Mayor Daley has succeeded in imposing some of the nation's most stringent firearms controls, operative against decent people but not against criminals. In a criminal climate of that kind, encouraged by the likes of those now clamoring for further gun control,

its a wonder everybody in Chicago is not compelled to carry a gun for his own defense whether he wants to do so or not. Of course, when this armed condition is reached crime will decrease. The good people outnumber the evil people, and if armed and trained a bit can take care of the situation.

The street gangs are not tough. They may indeed be decked out like fighting cocks but they have no guts for heart-to-gun muzzle confrontations. And domination over the big city streets is a hollow trumpeting successful only because of the disarmed condition or the cowardice of those they encounter. If they should be permitted to triumph throughout the country America will rot away like some giant banana republic, "totally integrated, chaotic and stagnant."

In 1971, The Advocates, Public Broadcasting Service research, brought out that "Crime in the U.S. is, sadly, a racial problem, and it is not racist to say so. The social pressures that breed crime do not need reiteration here. But the crime rate, and the gun crime rate, will not drop until we decide there shall be no American second class. The crimes of white against white in the U.S. are about the same rate as in Europe. We must stop kidding ourselves that some palliative like passing a law against guns will solve a problem that goes so much deeper".

Studio research also reported estimates that it would cost from \$1 to \$4 billion to confiscate and reimburse owners for all pistols and revolvers in America.

"The entire budget for law enforcement in the U.S. is \$4 billion a year. That includes police salaries, equipment, courts, prosecutors, and prisons. Consider the gain from a 25 percent (or much greater) boost in prison budgets, spent for better foods, better medical conditions, higher salaries and better training for guards. What city, plagued with crime, would not benefit dramatically from an increased police force. Some of that money could be used to speed trials, getting accused criminals off the streets before they commit another crime while awaiting trial.

"What effect might \$1 billion have if spent creating useful jobs for black teenagers, who are most likely to be the criminal offenders with handguns?"

It would seem undeniable that money is required to promote original thinking and action in this area. Something should be provided to take the place of the long line of stereotyped social failures imposed upon us for so long by self-appointed social doctors. It's amazing how it is that white people, principally from government and big universities, continue to prescribe for our racial ills after decades of their demonstrated failures. In violation of all that is reasonable in the relationships between people, they continue to impose upon our black population "white definitions" of how people ought to live. They have never been successful in doing so but their only response has ever been to demand more for the future of that which has failed in the past.

A prescription for trouble, for example, is to convince any kid, black or white, that he deserves something for nothing; that he deserves education and wealth, things which he translates into instant Cadillacs, flashy clothes and high paying jobs without apprenticeship or work; then let the cold economic facts of life, which he cannot understand, deny these goodies to him. Some of these kids will go out with torch, dynamite or gun, to get what white intellectuals have convinced them that society owes them and has denied them. Every child in America, black or white, has to one extent or another, been the victim of this ever escalating promise and expectation, impossible of achievement in the real world except by adequate preparation and honest sweat.

But, are the kids to blame? Yes. Those who have sinned must pay; if not in the courts then by the destitution of their lives. But who has committed the greater sin, the kids or the sociopoliticians who led them astray, ethically and economically? How can they be punished? Ignore them. That would be their capital punishment. Those who lack some honest sideline would shrivel and go away.

And, as for "white definitions" imposed on blacks by white people determined to do them good: How would you feel, White Parent, and what would be the measure of your bitterness and resentment, if by some alchemy of fate you were black and you were forced to send your well-groomed black child to school across town because white so-called liberals had decided he could not get an education unless seated in school with a bunch of dirty, unkempt, long-haired white kids?

William Raspberry, a thinking man, and only incidentally a black man who, is a columnist for the Washington Post, argues that black pupils may be the ultimate victims:

"... to send black children chasing to hell and gone behind white children is also wrong and psychologically destructive. It reinforces in white children

whatever racial superiority feelings they may harbor, and it says to black children that they are somehow improved by the presence of white schoolmates."

Thus our country lurches through repetitions of its racial failures, because we accept the prescriptions of white people who define their liberalism in terms of their attitude toward blacks and who would rather see their doctrinaire incantations in vogue than to be quietly successful in doing something for blacks.

Chief Charles Boone, black police chief of Gary, Indiana, is reported by Roy Wilkins as saying, "You can't put a black burglar in jail in Lake County and that makes it impossible to protect the black community. If we catch a white burglar in a white community he will probably go to jail, but the courts must either help us with a solution to the crime situation or they become a part of the problem." He was challenging two white judges to do a better job.

Chief Boone clearly sees that leniency for a man because of his race can result in tyranny and denial of privilege for the same stupid reason. Justice is not racial. It must be color blind or it's not justice. For those who would remedy the sins of the past by tampering with the justice of today the answer is equally clear: justice is not retroactive. Justice is singular. It is personal. It belongs to every man and it belongs to him now. Those who would alter it while groping for social goals, risk life in a jungle of uncertain power and privilege where the intellectual, the weak and aged are pillaged by the hairy and the muscular.

Mr. Wilkins, head of the NAACP, Washington, D.C., said poverty, joblessness and the like do exist, but that these must not be used "to excuse Negro criminality".

These things, and a great deal more, are what good Americans, who just happen to be black, have to say about blacks involved in crime. They recognize there is no clear difference between the old Southerner of the 1860s, who patronizingly didn't believe the black man could live without support of the white man, and the modern so-called liberal, who thinks the black man must have educational and performance standards lowered for him and that justice must be weighted in his favor to redress wrongs done his forefathers.

Much of the black crime in America—and that's most of the violent crime in America—is the product of this effort by white men who are determined to do the black man good, like it or not. But many people in the social and teaching professions never admit they can be wrong notwithstanding the obvious disaster they are imposing on this country. And so it is the black man has forced upon him what the white man thinks is good for him. That, incidentally, was precisely the situation in this country a hundred years ago. More and more thinking men are coming to conclude that it is out of this fact that the black man is often bewildered and resentful, and it is out of this fact that crime and violence often comes.

Not long ago the "Atlanta Inquirer", published by blacks, had this to say. "Friction and turmoil in race relations has been brought on by denying free choice, and by forcing upon people the odd concept of racial balance and quotas. Thus, race has become the theme with every issue, in every incident. This is where our nation's leadership went wrong. Whether their intentions were good or bad, they have promoted racism, division and hostility. The ultimate in this would be to forcibly move families about until each community in every congressional district has its dictated percent of racial mix."

So it is that those white people who cry the loudest about crime control and gun control, erroneously thinking one equates with the other, are making the greatest contributions to the conditions in America out of which come the greater part of our crime.

ANTI-GUN HYSTERIA PRELUDE TO A POLICE STATE

OUR REPRESENTATIVES SHOULD BE MAKING LAWS TO CURB CRIMINAL ACTS, NOT LEGISLATING AGAINST INANIMATE OBJECTS—IT'S TIME FOR YOU TO MOVE YOUR TAIL AND LET THEM KNOW

(By Harlon Carter)

To preserve our right to keep and bear arms law-respecting firearms owners have long agreed we must move forward from the defensive positions we have occupied since the 1930's.

It is a large political arena in which we shall win or lose the several constitutional rights bearing on gun ownership. It encompasses much more than the issue of gun control as seen only in the light of the Second Amendment. Our constitu-

tional defenses also exist in the courts on questions of the increasing exercise of police powers by the federal government-powers which it may not possess; unjustified extensions of the commerce clause; self-incrimination under the Fifth Amendment; defense of the concept that a man is innocent until proved guilty in a proper court and the construction of the case that gun laws peculiarly exist only in an atmosphere wherein a man is held suspect or else guilty because he possesses a certain kind of property and not because he has misused it, abused it or has any intent to do so; confiscation of private property from men not accused of crime, not endangering the public safety and not in individual condemnation proceedings.

Furthermore, there are interesting considerations both legal and political concerning no-knock laws, stop-and-frisk, wiretaps, bugging and the like, which smack of police state conduct and without which restrictive gun laws cannot be enforced.

There is a great deal more but this is enough to stimulate thinking and certainly to prod the initiative which is needed. For us to grasp the affirmative role in the gun control controversy we must move in judicial and political areas.

I visualize moves in the courts in carefully selected cases on the various constitutional issues involved.

I visualize political action in support of those good Americans in politics who have opposed illusionary, hysterical and expedient legislation more likely to intensify the issue than to solve the problem.

I visualize strong opposition to all efforts of the Federal government to impose Federal crime control or social programs in the states by the threat to deny or withdraw Federal funds from the states. This was the means recommended by the National Advisory Commission on Criminal Justice Standards and Goals for requiring the states to confiscate all handguns and register all other arms. It is the greatest danger now on the horizon.

I visualize numerous avenues available to us in opposing the tyranny of highly centralized government, knowing that the individual citizen's right to keep and bear arms has never existed except in democratic societies.

I visualize numerous initiatives available to us in support of our rights based upon the fundamental good sense of the American people. I am thinking of polls, statistics, educational options, studies of advantages to be found in the news media, political analyses to inform the people of the stands taken by their representatives, studies on plans and designs for neutralizing the positions of anti-gun people, the finding, assembling and organizing of key people to carry out our objectives in all geographical areas, the collection of actual cases supporting the correctness of our positions. This is not all.

A student of the gun control issue will readily perceive the arena is indeed a broad one, in which we must struggle to preserve the right to keep and bear arms. The contents of this brief article can barely scratch the surface. It is a struggle which will test whatever there might be of genius in any of us and it is one which will merit the devoted efforts of every citizen who in the broadest sense can perceive the relationships which our Bill of Rights liberties bear one to another.

I suggest we begin our affirmative role immediately in the area of crime control. The truth is that gun control does not equate with crime control. We have an advantage in this fact which we have neither exploited nor advanced convincingly. It is demonstrable that in those sections of the country where gun possession is most prevalent, crime is least.

Encouragingly, many moderate and reasonable men among our opponents are beginning to see that our problem is crime control and that gun control is not going to have much, if any, effect upon it. Of course, for reasons of their own, some of them still say gun control is desirable. For these people we can only wonder, as would any good citizen, what it is they have in mind for us that our possession of guns makes them so nervous.

As long as we concur that any measure of gun control equates with some measure of crime control we are in agreement with those who would eliminate our rights. We would then again be backed into our defensive position, held for forty years, always losing a little here and a little there until finally nothing would be left us.

No group of good citizens has ever struggled more conscientiously along the narrow pathway, between hope and moderation on one hand and the cold facts of efforts to abolish our rights on the other, than the leaders of the National Rifle Association. Every gun owner in America should applaud the action taken by the Executive Committee of the NRA in Washington, D.C. on July 12, 1974. "... the NRA opposes any proposed legislation, at any level of government, which is directed against the inanimate firearm rather than against the criminal misuse of firearms.

The NRA also takes the position that the attempt, whether by legislation or regulation, to outlaw certain kinds of handguns by employing size, metallurgical or similar standards or characteristics is arbitrary and unsound. Such legislation is ineffective in the prevention or reduction of crime and ignores the crime deterrent effect of the possession of firearms by law-abiding owners.

The NRA is wholly dedicated to the reduction and prevention of crime, but legislation against firearms rather than the criminal misuse of firearms is both unneeded and counter-productive. Such firearms legislation further burdens the vast majority of law-abiding firearms owners, and results in immense waste of resources and diverts public attention and support from truly effective crime control efforts."

If we should partake of the philosophy that a little more gun control would equate with a little more crime control, we would never regain anything of the rights of decent and law-respecting citizens to be free of suspicion of crime no matter what they own or carry.

Regrettably, the whole gun control effort is indispensably built upon the premise that a man is suspect, that he is a menace to law and order because he owns a gun and not because he has misused it nor because there is any evidence he ever intends to do so. Eliminate this premise and the whole gun control effort falters and falls apart.

Crime control cannot exist without general acceptance of the premise that every man is individually responsible for his own conduct. Our whole Judeo-Christian ethos for thousands of years has been built upon this. Any society which compromises this individual responsibility has embarked upon disturbances and finally dissolution.

Decent and moderate men must rid their thinking of the nonsense that our monster-murders, our multi-slayers are what they are because of some failure on the part of society. The best and quickest way to arm every household in America is for us to continue to do nothing effective with criminals. And, mark this well, neither the law nor the wishes of the people—even those armed in accord with necessity and not their wishes—will ever have anything effective to do about it.

A reasonable degree of order in society must prevail first. Criminals must be controlled first. We are the decent people. We try to be reasonable and we are not fools even though we have so often made mistakes in the past 40 years.

Today judges sit in their courts, six-shooters within their reach; teachers in our schools arm themselves and ask for police patrols; newspaper men write anti-gun articles at their desks in Los Angeles, Chicago, New York and Washington, D.C. and then put a pistol in their pocket when they start for home.

In Los Angeles one newspaper man, after writing a severe diatribe against firearms ownership in that city, arrived at this apartment one night with a long bundle under his arm. When a fellow newsman (and a friend of mine) who resided in the same building asked him what he carried, he said, "It's a shotgun. I'm against guns but I am not a damn fool."

Liberal-thinking and good-intentioned men ask for stop-and-frisk laws on the streets believing that since they ride in a good automobile and wear a good business suit they will not be a victim of that law. We must return to truth. Unquestionably more crimes are prevented merely by the threat of a gun, not its use, than are committed with guns.

We must recognize and expose the dishonest positions of those who seek gun control but who temporize with crime and seek to placate criminals.

In making the first thrust of our new initiative, one might point out that there is right now in this nation a sharp increase in murders committed during robbery. Small wonder.

When persons have committed a crime for which the maximum penalty is life imprisonment, there is nothing to discourage them from murdering their victims, witnesses, guards or hostages. They are doing just that. Our government, the laws and the courts, must stand responsible for this shameful loss of innocent lives.

Many people turn to England as an example for crime control. The fact is that in England, for hundreds of years, a man found guilty of any one of a number of crimes was promptly hanged. Now that a more humanistic generation of Englishmen has lately abolished these stern but effective methods, crime—including armed crime—is skyrocketing. Recently armed Englishmen, amid a hail of their own bullets, attempted to kidnap the eldest daughter of the reigning Queen of England! Unbelievable.

We can confidently build upon the fundamental good sense of the American people. This is the overwhelming substance and character of the affirmative position we must take. It is our responsibility to tell the people and to explain this initiative. They will agree if we do a good job. This is already their mood. Several recent Supreme Court decisions fortifying police efforts tend to reflect it.

When violent crimes begin to decline in number the gun prohibitionists will have lost much of their crusade.

[An editorial report from the American Rifleman, April 1975]

WHAT YOU CAN DO ABOUT ANTI-GUN TV

Nearly every competitive shooter owns a stop-watch. So do multitudes of other gun owners including those who compete or officiate in various athletic contests.

Those of you who do hold in your hand, then, a simple mechanism for combatting the biased electronic giants of network television that are trying to beat to death legitimate gun ownership in the U.S.

All that you have to do to mount a telling counter-offensive is to use that stop-watch, plus your pen or typewriter and your native intelligence.

At last, believe it or not, we may have the means of opposing the violently anti-gun TV shows that go so grindingly against the grain of many fair-minded Americans.

What you do is watch the television schedules for programs on guns, either network or local. Get set for them before they begin, with stop-watch, pencil and paper handy. Then record the amount of time devoted to attacking gun ownership and the amount of time—usually far less if any—that the same shows gives to defending it.

Then you write a letter including the contrasting times—so much against guns, so much for—with a protest against its unfair division, if that is the case. The letter should include the name and address of the station, name of program and moderator or sponsor, hour and date of its airing, and any other identifying information. Be sure, in any case, to include those main points.

The address to write is:

The Complaint Division, Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554

Send a copy of your letter, if possible to The American Rifleman, 1600 Rhode Island Ave., N.W., Washington, D.C. 20036.

While we cannot undertake to publish individual letters because we hope, there will be so many of them, we would like to keep a count and report on it to you later. So your cooperation will be most helpful.

The concept of a "Stop-Watch Campaign" against anti-gun television occurred to NRA Executive Committeeman Robert J. Kukla, a Park Ridge, Ill., lawyer and business man who is a foremost effective speaker against unfair gun laws, in analyzing how a Chicago station slanted a program in which he participated.

The procedure for writing the Federal Communications Commission along these lines was developed and suggested independently by another mid-western attorney, an NRA Member who has often corresponded with the FCC.

Kukla's eye-opening experience came Feb. 1, 1975, when WLS-TV, a Chicago ABC affiliate, aired a half-hour program including a portion of an hour-long videotape of the pro-gun side made of Kukla in his home two months earlier. The portion shown amounted to two minutes, 17 sec.

The program moderator, John Drury, was anti-gun. So we were the other four persons on the program. Drury used up 10 minutes, 19 sec. Chicago Deputy Police Chief James O'Grady consumed two minutes, 11 sec. Anti-gun Chicago Congressman Abner Mikva got in one minute, 33 sec. Dr. Emmanuel Tanay, a Detroit psychiatrist who mistrusts guns and much else, was allowed to air his views for three minutes, 13 sec. Mrs. Susan Sullivan, the suburban housewife who heads the Committee for Hand Gun Control, got 27 sec.

Kukla, who sat stop-watch in hand during the program, reported that the anti-gun spokesmen talked for a total of 17 minutes, 43 sec., or 88.58 percent of the entire program. The time allowed him amounted to 11.42 percent. He wrote the moderator:

"WLS-TV has merely confirmed my contention that the media do not believe that the proponents of stringent gun control laws can meet the issues fairly, on a one-to-one basis, and come off credibly."

Congressman John Dingell (16th Dist., Mich.), an NRA Director to whom Kukla sent a tape of the lopsided program, asked the FCC to investigate. The FCC replied that no action by it was warranted because there was no evidence of repeated or persistent unfairness by WLS-TV. Therefore watch your station regularly and build up a case based on more than one anti-gun broadcast. Report several instances at a time.

The other lawyer based his approach on viewing of three ABC programs, "The Gun" Nov. 13, 1974, "Streets of San Francisco" Dec. 12, 1974, and "The Rookies" Jan. 13, 1975. "All three had a similar scenario," he said. "A handgun is an inherently evil thing as reflected in the reaction that its possession brought." The acts of violence in the programs, he added, "occur outrageously disproportionate to actual life" and nowhere are sporting or defense uses of handguns depicted.

To be effective, this lawyer continued, letters to the FCC must state that there are currently pending in Congress bills which would restrict or prohibit civilian ownership of handguns. "This makes it controversial," he said, and puts it within the purview of the FCC. "A specific complaint must be made against the local station as well as the offending network, that they fail to offer balanced programming and opposing or differing views."

You then charge that the programming violates the "Fairness Doctrine" by being one-sided. You request an FCC investigation of your complaint, and that the offending network and its affiliated station be required to offer equal time to the NRA to present the gun owners' side.

Copies of your letter may be sent to the network executives (see list of names and addresses below) and to your U.S. Senators and Congressmen.

American Broadcasting Companies, Inc. (ABC), Walter A. Schwartz, president, ABC Television, Alfred R. Schneider, vice president, 1130 Avenue of the Americas, New York, N.Y. 10019.

Columbia Broadcasting System, Inc. (CBS), Robert D. Wood, president, CBS Television Network Division, Richard S. Salant, president, CBS News Division, 51 West 52nd St., New York, N.Y. 10019.

National Broadcasting Co. (NBC), Herbert S. Schiosser, president, Television Network Division, Richard C. Waid, president, NBC News Division, 30 Rockefeller Plaza, New York, N.Y. 10020.

[From the American Rifleman, April 1975]

STILL TIME TO OBJECT TO HANDGUN AMMO BAN

(By the Editor)

There is still time to protest against the proposed federal ban on handgun ammunition before April 14, NRA Executive Vice President Maxwell E. Rich points out. Write to:

Secretary, Consumer Product Safety Commission, P.O. Box 8137, Washington, D.C. 20024.

Use airmail, mailgram or other means if you wish to make sure of arrival of your message before the April 14 deadline.

The commission, a federal agency, stated in inviting comments pro and con on its proposed ban that they "should be submitted preferably in five copies." This presumably is for the convenience of the five members of the commission.

Letters, comment and other documents concerning the proposed ban may be inspected, Commission Secretary Sadie E. Dunn stated in the Federal Register (Feb. 14, 1975, p. 6818) at her office, 10th floor, 1750 K St., N.W., Washington, D.C., during weekday working hours.

The commission notice in the Federal Register explained that the Committee for Hand Gun Control, Inc., 111 E. Wacker Dr., Chicago, Ill., 60601, had petitioned the commission to ban "bullets for hand guns" as a "hazardous substance" last June; that the commission declined to do so, and that the Chicago group then got a U.S. District Court order Dec. 19, 1974, directing the commission to consider the ban proposal. (The American Rifleman, Feb., 1975, p. 52.)

On the strength of published reports that the commission would accept telephone comments on the ban over its national "hot line," that line was jammed with calls during much of January (The American Rifleman, March, 1975, pp. 14-15). The NRA, affiliated clubs and thousands of individual members got into the act before the commission announced "put it in writing."

U.S. District Judge Thomas Flannery, of Washington, who ordered the commission to consider the ban, on Feb. 14 deuled motions by The National Rifle Association and by U.S. Sen. Ted Stevens (Alaska) and Congressman John D. Dingell (16th Dist., Mich.) for the court to dismiss the action. The judge did rule, however, that the question of whether the commission actually had jurisdiction over ammunition was open to discussion.

The NRA now plans to take up this question of jurisdiction with the commission itself, Executive Vice President Rich announced. The NRA will also express its opposition to the ammunition ban at Congressional hearings on pending bills that would definitely deny the commission jurisdiction over ammunition.

(In the course of the public protests to the commission in January and later, so many good NRA Members and other gun owners expressed themselves that it proved impossible for this magazine to gather and report all details in the limited time and space available.

[From the American Rifleman, May 1975]

PRO-GUN MAIL SWAMPS CPSC OFFICES

(By American Rifleman Staff)

The Consumer Product Safety Commission was reeling under an avalanche of mail, overwhelmingly against the proposed handgun ammunition ban, as of March 27, 1975. At that date, 36,982 letters and petitions against the ban, 118 letters and five petitions for it had been tallied by Commission staffers.

Nine mail sacks, each holding about 70 lbs. of mail, according to Postal Service estimates, have yet to be counted. According to a CPSC staffer, this is the largest outpouring of mail ever received in Commission offices.

Most of the very few letters and petitions supporting the ban echo a single thought: cartridges can kill, and are therefore dangerous. A Cleveland woman wrote: "... 321 gun homicides in Cleveland last year should be proof that bullets are hazardous."

Most of the pro-ban petitions bear what appears to be the trademark of the Committee for Handgun Control—a handgun centered in a circle, crossed by a thick diagonal line. It closely resembles "no parking" signs now used in many cities.

According to M. Catherine Raspberry, assigned to sort and tally the mail at the Commission, many of the anti-ban letters and petitions appeared to be from shooting clubs.

One of the letters, from an attorney, read: "I am very concerned about the direction our government is going whereby members of the public are being governed by administrative agency regulations without representation."

A letter from Rep. L. F. Sikes (1st Dist, Fla.) said: I sincerely trust that you will leave such decisions in the hands of Congress, where they belong."

And, from a Roslyn Heights, Ohio, man: "A cartridge by itself is an inert object with no sharp edges and can in no way be considered hazardous—unless someone takes our President literally and 'bites the bullet,' thus getting lead poisoning."

AMMUNITION NOT "HAZARD" YET

A request by the Chicago-based Committee for Handgun Control (The American Rifleman, March, 1975, p. 14) to have handgun ammunition declared an "imminent hazard" has been denied by the Consumer Product Safety Commission, according to Commission Chairman Robert Simpson. Under the Federal Hazardous Substances Act, anything declared an imminent hazard may be immediately banned by the Commission, without further comment or proceedings until a final decision is made on banning the substance.

In Executive Session on March 27, 1975, the Commission also decided that handgun ammunition is within the jurisdiction of the Commission. NRA Attorneys had petitioned the Commission to drop all consideration of the handgun ammunition ban on the basis that ammunition is not a hazardous substance under the Federal Hazardous Substances Act of 1972, and thus not within the Commission's jurisdiction.

Some Congressmen have called the proposed ban a "backdoor attempt" at gun control. In this personal letter to the Commission, Rep. Robert L. F. Sikes (1st Dist., Fla.) a former NRA Director, said, "I sincerely trust that you will leave such decisions in the hands of Congress, where they belong." The NRA's petition, however, was denied.

According to Commissioner Simpson, "the situation is identical to what it was before." The Commission still has jurisdiction over handgun ammunition, and still has the power to ban it at some future date.

Several other petitions by the Committee for Handgun Control were also denied by the Commissioners. The Committee had asked that it be granted the "right of discovery," under which Committee attorneys would have had the right to question NRA attorneys and NRA attorneys would have been required to answer all questions. That petition, too, was denied.

A third request, also denied, was that the Chicago-based group be given 10 day notice before the Commission acted on the NRA petition. The Commission immediately acted on the NRA petition.

After the Consumer Product Safety Commission, at the request of the Committee for Handgun Control, published a request for comments on the proposed ban, mail began pouring into CPSC offices. As of March 27, 37,000 letters and petitions were tallied—only 118 for the ban. As one employee of the Commission put it, "it looks like kind of a lopsided count."

Despite this, the Commission could still decide in favor of the ban. According to Chairman Simpson, the Commissioners are by law "charged with the responsibility" of analyzing and taking into account public comment, but need not act in accordance with it.

The ban will go into effect if three of the five Commissioners decide in favor of it—though, according to one unidentified Commission staffer, "this thing will never go through."

Although the deadline for receipt of public comment was April 14, the Commissioners have no deadline for reaching their decision.

OF TIME (TV) AND MONEY

With increasing frequency, good NRA Members have proposed that the NRA buy prime national television time to reply to the torrent of anti-gun propaganda with which the American public has been deluged. From wherever they sit, these good folks cannot see a single reason why this should not be done, pronto. One recent letter, for example, suggests that "with the income of the NRA surely this could be managed."

As a matter of fact, with the relatively limited income of the NRA, the subject cannot even be approached. Network television dominates the entire media or communications field now, and is a multi-billion-dollar a year business. Last year TV grossed \$3,179,500,000. To suppose that an organization with an annual gross income of \$8 to \$9 million can buy into it substantially shows a lack of information or realism.

One suggestion was to chop in half the annual budget for *The American Rifleman*, the main contact which many of our million members have with the organization, and divert half of this sum to buying prime network time. Actually, the entire annual printing and production budget of *The American Rifleman* would buy hardly two hours of prime network advertising time a year.

For those who do not know of it, the NRA already has a real and often effective grass-roots television-radio program going. It takes the form of spot announcements distributed for public service broadcast to radio and television stations throughout the United States.

If your local stations have not been receiving them, either the stations or individual members can write NRA Headquarters to that effect. It should be clearly understood that the stations are not under any obligation to use NRA spots. They receive public service spots from dozens of sources and may or may not use ours, as they see fit.

Actually, hundreds of independent stations over the country are giving thousands of dollars of free time to the conservation, hunting, and other spots spon-

sored by the NRA. The program is a good and growing one. You can help at the local level simply by calling your station and asking if they use such spots. But please remember, you are asking them to do your organization a favor. Approach it in that way and it can be very helpful.

WHY THE ANTI-GUN PRESS IS MISTAKEN

An explanation of the rabid antigun attitude of much of the national news media appears in a thoughtful analysis by Patrick J. Buchanan, Special Consultant to the President, made this spring. Buchanan, who has a two-fisted way of demolishing journalistic claptrap, starts with a comment on the Washington mental or intellectual atmosphere, sometimes clinically denominated "Potomac fever."

"The national press live and work within the metropolitan area of Washington, D.C., which in James Reston's phrase about Manhattan, is surely among 'the most unrepresentative of American communities,'" Buchanan says. "No other great city in America is quite so left of the political center as the Nation's capital."

The dominant view within the inner city, where the press holds forth, was perhaps best evinced when the society editor of The Washington Post remarked that she eyed the arrival of the Republican administration in Washington in 1969 as "much the way the Parisians viewed the arrival of the Nazi Army of Occupation."

Tickling off the wrongdoings and cracked-mirror reflections of the news media, Buchanan said: "Over the past decade, there has arisen a media penchant for over-accentuating the negative, constantly placing before the American people what is wrong with their society."

It is within this kind of closed thinking and dogmatic reporting, Buchanan points out, that "the national press favors Federal gun control and abhors the gun lobby, the NRA."

While the White House consultant, a former St. Louis editorialist with a master's in journalism, does not spare the lash, he lays it on where it is deserved. If the truth stings, we say let them squirm.

JULY 29, 1975.

MEMORANDUM

To: John Conyers, Jr., Chairman.
From: Gene Gleason.
Subject: History of Gallup Poll on Firearms.

Historically the Gallup organization has reported a heavy public preference for more restrictive firearms laws. As early as May 1, 1938 Gallup asked the following question:

Do you think all owners of pistols and revolvers should be required to register with the government?

The reply was:

	Percent
Yes -----	84
No -----	16

Through the years the public preferences have remained relatively the same. The sampling on firearms law preferences was interrupted during the years of World War II, and when it resumed the findings were approximately the same. Picking up in 1959, Gallup found that 75 percent of the general public and 65 percent of the gun owners favored the requirement of a police permit before buying a handgun.

These public preferences have remained consistently within the same range through the years. Attached are exhibits from a three volume history of the Gallup Poll published by Random House, and which covered the years 1935-71.

In 1972 Gallup found that 71 percent of the general public and 61 percent of the gun owners favored a police permit. I have also attached copies of the most recent Gallup Polls, published June 5 and July 6, 1975. I should point out that the findings of others, such as the Harris Survey and the California Poll reflect a similar public mood.

GALLUP POLL 1938

MAY 1: PISTOL REGISTRATION

Interviewing date 4/1-6/38, Survey No. 117-A.

Question. Do you think all owners of pistols and revolvers should be required to register with the Government?

	Percent
Yes	84
No	16

By Region (Yes):	Percent
New England.....	90
Middle Atlantic.....	82
East Central.....	86
West Central.....	83
South.....	83
Mountain.....	84
Pacific.....	85
By Region (No):	
New England.....	10
Middle Atlantic.....	18
East Central.....	14
West Central.....	17
South.....	17
Mountain.....	16
Pacific.....	15

GALLUP POLL 1959

AUGUST 30: GUN CONTROL

Interviewing Date 7/23-28/59, Survey No. 616-K.

Question 23. Would you favor or oppose a law that would require a person to obtain a police permit before he or she could buy a gun?

	Percent
Favor	75
Oppose	21
No opinion.....	4

Gun owners only:

Favor	65
Oppose	30
No opinion.....	5

Hunters only:

Favor	62
Oppose	33
No opinion.....	5

Interviewing Date 7/23-28/59, Survey No. 616-K.

Question 24. Would you favor or oppose a law that would require a police permit for the purchase of gun shells or ammunition?

	Percent
Favor	54
Oppose	40
No opinion.....	6

SEPTEMBER 2: GUN CONTROL

Interviewing Date 7/23-28/59, Survey No. 616-K.

Question 25. Which of these three plans would you prefer for the use of guns by persons under the age of 18—forbid their use completely, put strict regulations on their use, or continue as at present with few regulations?

	Percent
Forbid completely.....	34
Regulate strictly.....	51
Continue as at present.....	12
No opinion.....	3

Interviewing Date 7/23-28/59, Survey No. 616-K.

Question 27. Do you think it should be legal or illegal for private citizens to have loaded weapons in their homes?

Percent

Illegal	53
Legal	40
No opinion.....	7

SEPTEMBER 4: GUN CONTROL

Interviewing Date 7/23-28/59, Survey No. 616-K.

Question 26. Should all handguns be outlawed except for police use?

Percent

Yes	59
No	35
No opinion.....	6

Interviewing Date 7/23-28/59, Survey No. 616-K.

Question 29. Do you have a gun in your home?

Percent

Yes	49
No	51

Interviewing Date 7/23-28/59, Survey No. 616-K.

Question 29a. What type of gun?

Percent

Shotgun.....	32
Rifle.....	27
Pistol.....	16
No gun.....	51
Total.....	126

By Region

East:

Shotgun.....	20
Rifle.....	16
Pistol.....	11
No gun.....	69
Total.....	116

Midwest:

Shotgun.....	37
Rifle.....	29
Pistol.....	14
No gun.....	47
Total.....	127

South:

Shotgun.....	46
Rifle.....	37
Pistol.....	19
No gun.....	33
Total.....	135

West:

Shotgun.....	24
Rifle.....	30
Pistol.....	21
No gun.....	53
Total.....	128

By Community Size

500,000 and Over:

Shotgun.....	13
Rifle.....	11
Pistol.....	12
No gun.....	75
Total.....	111

AUGUST 30: GUN CONTROL

Interviewing Date 7/23-28/59, Survey No. 16-K.

Question 23. Would you favor or oppose a law that would require a person to obtain a police permit before he or she could buy a gun?

	Percent
Favor.....	75
Oppose.....	21
No opinion.....	4
Gun owners only:	
Favor.....	65
Oppose.....	30
No opinion.....	5
Hunters only:	
Favor.....	62
Oppose.....	33
No opinion.....	5

Interviewing Date 7/23-28/59, Survey No. 616-K.

Question 24. Would you favor or oppose a law that would require a police permit for the purchase of gun shells or ammunition?

	Percent
Favor.....	54
Oppose.....	40
No opinion.....	6

JANUARY 12: GUN CONTROL

Interviewing Date 12/5-10/63, Survey No. 681-K.

Question 20. Would you favor or oppose a law which would require a person to obtain a police permit before he or she could buy a gun?

	Percent
Favor.....	78
Oppose.....	17
No opinion.....	5

By Sex

Men:

Favor.....	71
Oppose.....	26
No opinion.....	3

Women:

Favor.....	85
Oppose.....	10
No opinion.....	5

By Education

College:

Favor.....	80
Oppose.....	17
No opinion.....	3

High School:

Favor.....	81
Oppose.....	17
No opinion.....	2

Grade School:

Favor.....	74
Oppose.....	18
No opinion.....	8

By Age

21-29 years:	
Favor	74
Oppose	25
No opinion	1
30-49 years:	
Favor	81
Oppose	16
No opinion	3
50 years and older:	
Favor	78
Oppose	15
No opinion	7

By Region

East:	
Favor	90
Oppose	8
No opinion	2
Midwest:	
Favor	77
Oppose	18
No opinion	5
South:	
Favor	72
Oppose	21
No opinion	7
West:	
Favor	73
Oppose	25
No opinion	2

GALLUP POLL 1965

FEBRUARY 7: FIREARMS

Interviewing Date 1/7-12/65, Survey No. 207-K.

Question 20. Would you favor or oppose a law which would require a person to obtain a police permit before he or she could buy a gun?

Percent

Favor	73
Oppose	23
No opinion	4

Interviewing Date, 1/7-12/65, Survey No. 704-K.

Question 22. Which of these three plans would you prefer for the use of guns by persons under the age of 18—forbid their use completely, put strict restrictions on their use, or continue as at present with few regulations?

All persons:	Percent
Forbid completely	28
Strict restrictions on use	55
Continue as now	14
No opinion	3
Gun owners:	
Forbid completely	17
Strict restrictions on use	58
Continue as now	23
No opinion	2

Question. Does anyone in your home own a gun?

Percent

Yes	48
No	52

Question. Those who replied in the affirmative were asked: What type of gun is owned?

	Percent
Shotgun	33
Rifle	24
Pistol	16
Total	73

[Note: table adds to more than 48 percent since many homes have more than one type of weapon.]

GALLUP POLL 1966

SEPTEMBER 14: GUN CONTROL

Interviewing Date 8/18-23/66, Survey No. 733-K.

Question 9a. Would you favor or oppose a law which would require a person to obtain a police permit before he or she could buy a gun?

	Percent
Gun owners:	
Favor	56
Oppose	41
No opinion	3
All persons:	
Favor	68
Oppose	29
No opinion	3

Interviewing Date 8/18-23/66, Survey No. 733-K.

Question 10. Which of these three plans would you prefer for the use of guns by persons under the age of 18—forbid their use completely, put restrictions on their use, or continue as at present with few regulations?

	Percent
Gun owners:	
Forbid use	17
Restrictions on use	59
Continue as at present	22
No opinion	2
All persons:	
Forbid use	27
Restrictions on use	55
Continue as at present	15
No opinion	3

Greatest support for gun controls comes from women and from persons living in the largest cities.

GALLUP POLL 1967

AUGUST 27: GUN CONTROL

Interviewing Date 8/3-8/67, Survey No. 749-K.

Question 5. Do you favor a law that would require a person to obtain a police permit before he or she could buy a gun?

	Percent
Favor	73
Oppose	23
No opinion	4

By Race

Whites:	
Favor	73
Oppose	24
No opinion	3
Negroes:	
Favor	70
Oppose	21
No opinion	9

[From the Gallup Poll Release, Sunday, July 6, 1975]

NEARLY HALF OF U.S. HOUSEHOLDS HAVE AT LEAST ONE GUN— BUT REGISTRATION FAVORED

(By George Gallup)

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Princeton, N.J., July 5—Although the latest nationwide survey gives further evidence of America's historical attachment to firearms—nearly half of all households have at least one gun—a majority of gunowners as well as non-owners favor the registration of all guns.

The survey, which was based on interviews in 3,108 households, reveals that 44 percent of those households have at least one gun—pistol, shotgun or rifle.

The highest proportion of households have a shotgun (26 percent) or rifle (also 26 percent), followed by a pistol or handgun (18 percent).

Gun ownership is highest in the nation's smaller communities and in the South where a majority of residents (58 percent) say there is some kind of gun in their homes.

Sharp differences are found on the basis of income level, with higher income persons more likely to own guns.

27 PERCENT OF HOUSE MEMBERS HAVE GUN

The Washington Post recently reported that members of the U.S. House of Representatives are actually better armed than the American people they represent. A recent survey conducted by the Post shows that 27 percent of the 435 House members own handguns. This compares with 18 percent of households in the general public, as reported by the Gallup Poll.

GUNOWNERS SUPPORT GUN REGISTRATION

Despite the widespread ownership of guns, a majority of gunowners as well as non-owners favor the registration of all firearms. In the latest survey, 55 percent of gunowners and 76 percent of non-owners favor registration. The percentage for this nation as a whole—gunowners and nonowners alike—is 67 percent. Thus President Ford, who recently took a strong stand against registration, is clearly out of step with public opinion on this issue.

Following are the results on gun ownership:

GUN OWNERSHIP IN HOME

(In percent)

	Have gun in home	Shotgun	Rifle	Pistol
Nationwide.....	44	26	26	18
East.....	31	18	19	11
Midwest.....	46	31	25	15
South.....	58	36	31	28
West.....	40	18	28	19
Community size:				
100,000 and over.....	22	12	11	9
500,000 to 999,999.....	29	14	12	15
50,000 to 499,999.....	37	20	20	17
2,500 to 49,999.....	51	29	30	24
Under 2,500.....	68	47	43	24
Whites.....	49	29	28	19
Nonwhites.....	31	14	10	15
Northern whites.....	42	26	26	16
Southern whites.....	60	38	34	29
Professional and business.....	43	23	26	18
Clerical and sales.....	35	21	21	15
Skilled manual labor.....	56	38	33	23
Unskilled manual labor.....	44	25	25	18
Income:				
\$15,000 and over.....	52	31	33	25
\$10,000 to \$14,999.....	47	30	28	17
\$7,000 to \$9,999.....	42	27	21	15
\$5,000 to \$6,999.....	40	20	21	16
\$3,000 to \$4,999.....	34	18	16	15
Under \$3,000.....	32	17	19	13

The results reported today are based on two nationwide surveys of adults, 18 and older, interviewed in person in more than 300 scientifically selected localities in the nation. The first survey was conducted March 7-10 with 1,542 persons; the second was conducted March 28-31 with 1,566 persons.

[From The Gallup Poll Release, Thursday, June 5, 1975]

CITY RESIDENTS WOULD BAN HANDGUNS

PUBLIC OVERWHELMINGLY FAVORS REGISTRATION OF ALL FIREARMS

(By George Gallup)

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Princeton, N.J., June 4—A large majority of the American public, 67 per cent, favor the registration of all firearms, consistent with Gallup surveys over the last three decades which have shown similar majorities supporting such legislation.

Support for registration of guns (shotguns, rifles, and handguns) is found among all major segments of the population and among gunowners as well as non-gunowners.

More dramatically, a majority of persons living in high crime areas—large cities and in the East—would go so far as to ban the possession of handguns by anyone except the police or other authorized persons.

Persons living outside the East and in smaller communities, however, would oppose such a ban. Nationally, 55 per cent think there should NOT be a law forbidding the possession of handguns by private citizens, while 41 per cent say they would favor such a law.

REASONS PRO AND CON

Among those who favor a ban on handguns is a 24-year-old female social worker from Los Angeles who questions the need for this type of gun: "Gun abuse is a growing problem that needs to be addressed. Access to guns by almost anyone is socially dangerous. The populace doesn't need handguns—they breed more trouble than they prevent."

A 25-year-old female teacher from Chicago had this to say: "Handguns are a menace to public safety and are more of a liability than an aid to a family when they are used as protection."

A retired public utility executive from Sarasota, Fla., opposes a ban on handguns: "Guns don't kill, people do. Enforcement of our laws, promptly and efficiently, is what is needed to curtail crime."

The findings show support for such handgun legislation highest among women, persons with a college background, Easterners, and persons living in the largest cities in the nation.

Here is the question dealing with registration:

"Do you favor or oppose the registration of all firearms?"

Here are the figures nationwide, by key groups and by gun-owners and non-gunowners:

(In percent)

	Favor registration	Oppose registration	No opinion
Nationwide.....	67	27	6
Men.....	61	33	6
Women.....	72	22	6
College background.....	73	22	5
High school.....	68	27	5
Grade school.....	57	33	10
East.....	74	20	6
Midwest.....	64	31	5
South.....	66	28	6
West.....	63	33	4
City size:			
1,000,000 and over.....	81	15	4
500,000 to 999,999.....	77	17	6
50,000 to 499,999.....	71	25	4
2,500 to 49,999.....	64	30	6
Under 2,500.....	50	42	8
Gunowners.....	55	39	6
Nonowners.....	76	18	6

The following question was asked to determine attitudes toward making possession of pistols illegal:

"Here is a question about pistols and revolvers. Do you think there should or should not be a law which would forbid the possession of this type of gun except by the police and other authorized persons?"

Analysis of the findings show that outside the high crime areas—the East and the nation's largest cities—all major groups oppose the banning of handguns, with two exceptions. Among women and persons with a college background, opinion is closely divided.

Here are the findings:

(In percent)

	Should be law forbidding possession	Should not be	No opinion
Nationwide.....	41	55	4
East.....	58	37	5
Midwest.....	44	53	3
South.....	27	59	4
West.....	29	65	6
City size:			
1,000,000 and over.....	66	29	5
500,000 to 999,999.....	44	53	3
50,000 to 499,999.....	40	55	5
2,500 to 49,999.....	36	58	6
Under 2,500.....	28	69	3
Men.....	35	62	3
Women.....	46	49	5
College background.....	49	47	4
High school.....	39	57	4
Grade school.....	36	59	5
Gunowners.....	24	74	2
Nongunowners.....	54	40	6

Note.—Gun ownership highest in south.

More than four in 10 households in the U.S. (44 percent) have at least one gun—pistol, shotgun or rifle, as determined by interviews in 3,108 households.

The highest proportion of households have a shotgun (26 percent) or rifle (also 26 percent), followed by pistol or handgun (18 percent).

Gun ownership is highest in the Nation's smaller communities and in the South where a majority of residents (58 percent) say there is some kind of gun in their homes.

It is interesting to note that gun ownership is considerably higher among whites than among non-whites.

Following are the questions asked to determine gun ownership:

"Now, here is a question on gun ownership. Do you have any guns in your home?" (If yes: "Is it a pistol, shotgun or rifle?")

DEBATE ON ISSUE HAS BEEN INTENSE

Debate over gun controls has been intense, with police across the Nation reporting sharp increases in the number of violent crimes, particularly those involving handguns. Pressure has been on Congress to prohibit the manufacture of handguns or handgun parts in the United States and to amend the 1972 "Saturday night special" law and thus end all wholesale importation of handguns and handgun parts.

Sen. Phillip A. Hart (D.-Mich.) and Rep. Jonathan Bingham (D.-N.Y.) recently introduced bills in the Senate and House to limit handgun ownership to law-enforcement officials, security guards, military personnel and members of licensed pistol clubs. Atty. Gen. Edward H. Levi also recently called for banning possession of handguns in high-crime areas of the Nation.

The results reported today are based on two nationwide surveys of adults, 18 and older, interviewed in person in more than 300 scientifically selected localities in the Nation. The first survey was conducted March 7-10 with 1,542 persons; the second was conducted March 28-31 with 1,566 persons.

[From the American Rifleman, May 1971]

NATIONAL SHOOTING CENTER PROPOSED

RICH OUTLINES PLANS TO EXPAND RANGES. SCOTT: MOVE NRA HQ?

(By American Rifleman Staff)

An extensive program of range and general expansion for the National Rifle Association of America was outlined at the start of its second century by NRA officers at the Annual Meetings in April.

Woodson D. Scott, New York City lawyer completing his two-year term as NRA President, suggested that consideration be given to moving most NRA administrative operations from the present Headquarters in downtown Washington, D.C., either to Virginia or to a Midwest location such as Illinois, Indiana, or Missouri, to avoid adverse conditions in Washington.

Mr. Scott also suggested that World Shooting Championship hosting be reviewed so that the guest organization does not have to meet all major expenses as the NRA did at Phoenix last Fall. The matches there, he said, cost the NRA \$446,617 as of Dec. 31, 1970, primarily because of lack of government support and because inflation swelled expense estimates.

Executive Vice President Maxwell E. Rich presented a 10-year program for 1971-81 under which the NRA would expand shooting facilities both nationally and in metropolitan areas, especially, and would stimulate an air gun program in schools, focus more on International style shooting and update its programs. Gen. Rich summed up the program as follows:

"In summary, the next decade should see NRA programs keeping step with the changing times. We look forward to:

- "1. The establishment of a National Shooting Center.
- "2. The formation of more metropolitan shooting centers.
- "3. The acceptance of a broader precision air-rifle program which can be installed in schools and industrial recreation programs.
- "4. Modification of our competitive program to improve our international record and to encourage people to try the sport.
- "5. Keeping pace with the changing world.

"We are celebrating our first 100 years of service. They are behind us. Our challenges lie ahead. Let us start working now to meet those challenges."

Gen. Rich tied up to his proposal by outlining the present status of the NRA after a remarkable growth in recent years. He said:

"If NRA is to continue to be a viable organization, we must devote considerable attention to these questions: 'Where can I shoot?' 'Where can I be trained?' 'Where can I compete with other shooters?'"

"The availability of land and ever-increasing costs are major problems. I am convinced that in the populated or metropolitan areas our clubs can best solve these problems by combining efforts to secure the facilities they must have. Our records show that many such areas now have from 20 to 80 NRA chartered clubs, in many cases each struggling to maintain minimum facilities. They can keep their separate club identities and programs, but still combine to secure adequate and modern facilities to be used by all.

"I am suggesting that a metropolitan area should have one—or several shooting sports centers, if the area is one of exceptionally large population. The combined clubs would finance the center and share its use.

"Pooling resources in this way could modernize shooting facilities in much of the country." He described what such a center would be like:

"From the parking lot we enter an attractive club house lobby . . . wings include a locker room and an indoor range, with firing points for smallbore rifle, pistol, and air gun shooting. . . . Outdoors, we view a pistol range and a rifle range with targets at 50, 100, and 300 meters . . . of the safety type, to confine all bullets. They are automated, and scoring is achieved electronically. . . . To one side is a moving target range, with running deer and running boar targets. . . . To the other side we see shotgun fields. Beyond this is a quail walk where several hunters are testing their readiness for the season which is soon to open.

"The center manager introduces us to his staff. . . . We learn that . . . a majority of the students join one of the 25 clubs, take part in the regular league competitions, sign up for advance instruction, and shoot in the monthly open tournaments . . . several of the advanced trainees show definite signs of being

international or Olympic team prospects. Plans have already been made for them to spend their two weeks of summer vacation at the NRA National Center, where they will have the best coaching and where the training squad for the next World Championship team will be chosen. . . . There is a precedent for such centers already. The Blue Trail complex in Connecticut is one example. The State of West Virginia is planning to construct a hunter safety and range center with funds available under the new Dingell bill."

Gen. Rich continued: "Another look at our million members shows that about one in 10 can be considered a serious target shooter, one who is a registered and classified competitor. This means that a vast majority has other interests—other reasons for NRA membership. Some are hunters, some are collectors, many endorse and support us because we defend their right to own guns and enjoy shooting; and the record shows, too, that many are readers for whom the NRA is The American Rifleman."

"I believe The American Rifleman will continue its leadership in the periodical field, and we should see that it does. Other developments will certainly provide much material which will help us do this."

Mr. Scott pointed out that constant increases in Federal government pay in the Washington area not only outstripped NRA Staff pay raises but kept living costs soaring. Although merit raises totaling \$92,960 were approved within the past year for 252 of 289 employees, he said there is now talk of a government raise of 6 percent which would again upset matters.

"If we are to maintain an effective and happy organization in the city of Washington," he continued, "we cannot remain immune from the result of this." Further, he said, employment requirements in Washington place "an unreasonable hardship on any organization" such as the NRA. Therefore, he stated his personal opinion "that certain parts of our operations now conducted in Washington could with great advantage be moved to some other less congested area."

[From the American Rifleman, June 1974]

NRA OPENS VISITOR CENTER, PUSHES PLANNING, AT RATON

(By American Rifleman Staff)

The NRA National Outdoor Center near Raton, N. Mex., took further strides forward with the selection of two firms to create a master plan for development of the 37,000 acres and the opening June 24 of a temporary visitor facility from which a picturesque part of the area can be viewed.

The master plan, covered by a contract made May 23 between the NRA and Scanlon & Associates, Santa Fe, N. Mex., and W. C. Kruger & Associates, Albuquerque, N. Mex., calls for all details of the vast complex of target ranges, conservation areas, camping and recreation facilities and training accommodations to be worked out by March, 1975.

To afford the first glimpse of the Outdoor Center, the temporary visitor facility was established on U.S. Highway 64 south of the city of Raton. In announcing it, Maj. Gen. Maxwell E. Rich, NRA Executive Vice President, said, "NRA Members and friends of the NRA traveling in northern New Mexico this summer can overlook portions of the NRA Outdoor Center site from this facility. It will be manned seven days a week through Labor Day as an NRA project with the close cooperation of the city of Raton, the Raton Chamber of Commerce and New Mexico State officials."

The visitor facility enables callers to see the section of the center where the main buildings and activities will be located, together with much of the range area. This is a level portion of the tract just west of the Canadian River and the Atchison, Topeka & Santa Fe Railway line. Because of lack of internal roads, the area cannot be opened to visitors at this time. There also are some hazards to be eliminated from old mining areas. Coal was mined in one of the valleys from approximately 1900 to 1948. The ghost town of Van Houten still stands as a monument to this past activity, along with a stone-faced mine shaft entrance and the remains of a huge stable which once housed 150 mine mules. Nearby, at the old railhead, is the smaller ghost town of Preston.

Heads of both of the development planning firms were born in Raton and are familiar with the vicinity from birth. T. E. Scanlon's engineering firm will prepare the overall plan, with Ted Scanlon and Robert W. Sparks directing. W. C.

Kruger & Associates, architects, will handle the architectural design and planning necessary.

The Outdoor Center will reflect the full scope of NRA activities.

The master plan provides for housing and laboratory facilities for education, as well as the best possible facilities for every type of shooting activity. The educational facilities will be oriented toward natural resources management and conservation. Year-round programs in cooperation with college and governmental agencies in educational and training programs of mutual interest will be provided.

The ranges established will serve to develop and test range equipment as well as their primary purposes in training and competition. Facilities will also be provided to test and evaluate shooting and hunting equipment.

A permanent visitor center will include museums of firearms and natural history, and will acquaint the general public with the purpose and significance of the NRA.

In establishing the NRA Outdoor Center facilities every effort will be made to preserve the cultural and historical attributes of the area. Architecture will be designed to harmonize with the natural geography.

Game animals found on the acreage include mule deer, elk, bear, wild turkey and mountain lion.

The city of Raton is cooperating in procurement of utilities and will run a 10" water line capable of delivering 1,300,000 gallons per day to the property by November, 1974.

Preliminary master plan criteria include camping facilities and nature trails open to Members and their families. Areas will also be provided for commercial exhibits and sites will be available for individual NRA clubs including State associations to erect their own permanent buildings.

A Special Contribution Fund, separate from regular NRA operations, was established in March to implement the Outdoor Center master plan. Contributions to the fund are tax deductible, according to a ruling made by the IRS in April. Checks should be made out to: NRA Special Fund.

IRS RULES NRA CENTER GIFTS TAX DEDUCTIBLE

The Internal Revenue Service has ruled that contributions to the NRA Special Contribution Fund to develop the NRA Outdoor Center at Raton, N.M., are tax-deductible by the donors.

The IRS so notified the fund by letter dated April 30, 1974, from its Exempt Organizations Branch. The letter also said that the fund itself is exempt from paying Federal income taxes.

"This paves the way for those interested in building a truly fine center, featuring not only marksmanship training but conservation research and education of young people in the outdoors, to make contributions and to take tax deductions accordingly," Maj. Gen. Maxwell E. Rich, NRA Executive Vice President, commented.

"We are intent on saving and preserving some 35,000 acres of America for the American people, and the IRS decision comes as a distinct help in reaching that objective."

The Special Contribution Fund was established by resolution at the NRA Members' Meeting March 31, 1973, and affirmed by the NRA Board of Directors April 2. As set up, it is separate and distinct from NRA operations and is organized exclusively for charitable, educational and scientific purposes.

The constitution of the fund further explains that:

"No part of the net earnings of the Fund shall inure to the benefit of, or be distributable to, its members, trustees, officers, or other private persons, except that the Fund shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Third hereof.

"No substantial part of the activities of the Fund shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Fund shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. . . ."

Donors to the fund may deduct contributions from Federal income taxes. Bequests, legacies, devises, transfers or gifts are deductible for Federal estate and gift tax purposes, if they meet conditions of the IRS Code. Donations should be sent to the NRA Special Contribution Fund, 1600 Rhode Island Ave., N.W., Washington, D.C. 20036.

[From the American Rifleman, March 1975]

BUILDING THE NRA OUTDOOR CENTER

(By George R. Whittington)

The history of the National Rifle Association is the history of a series of challenges that have faced the organization and how these challenges have been met.

In the 1950's, for example, it was apparent that the NRA had outgrown its former quarters. The need for modern, efficient office building headquarters became obvious. Money was raised to build the headquarters building by promotional shoots, raffles, contributions, and a sustained drive for life memberships.

In the 1970's a new and more exciting challenge has been presented to the Association. This is to build the Association's Outdoor Center at Raton, N. Mex. This long-term project is by far the biggest challenge, and the best opportunity, ever to be presented to the NRA. The Center's purpose, stated briefly, is to provide a home for all of the participation activities in which NRA is involved. The Outdoor Center will have the highest quality ranges for competitive shooting. It will have classrooms and training areas for every type of shooting instruction. The Center will be a place to do, a place to learn, a place to participate for the NRA membership and their invited guests. The Outdoor Center will provide outstanding examples of resource and wildlife management and the opportunity for the youth of the Association to learn about the outdoors and the conservation and wise use of our natural resources. The Outdoor Center will tell the story of the National Rifle Association, have an outstanding firearms museum and "Shooters Hall of Fame," and display trophy collections of North American big game species. Above all, the Outdoor Center will be a home with which the membership of the NRA can identify. It will be "our" home for this generation and for those to come.

Building and maintaining the NRA Outdoor Center will take money, lots of money. This money will be over and above the annual operating budget of the NRA. The NRA Outdoor Center will be a new and a separate function of your Association.

For the purposes of building and operating the NRA Outdoor Center, the NRA has established the "NRA Special Contribution Fund". The contributions, gifts, and bequests to this fund are tax exempt to the donor under official rulings of the U.S. Internal Revenue Service. This is the only function of the NRA that has this preferred tax status. This tax status is important when we consider how we are going to fund the NRA Outdoor Center.

Contributions of all sizes, large and small, will be necessary in building this outstanding facility. The Congress of the United States long ago decided that similar projects were in the public interest and, being in the public interest, such contributions should receive preferred Federal income tax status.

In plain non-technical terms, gifts of your money to the NRA Outdoor Center can be used, dollar for dollar, to reduce your net taxable income. All that is necessary is that you itemize your deductions on your income tax report. Some 50 percent of Americans now do this. Depending on your income level, this provision of the tax laws reduces the "real" cost of your gift.

Additional means of giving money to the NRA Outdoor Center with substantial legitimate tax benefits are available. Those who have real or personal property that has appreciated in value should consider transferring the property directly to the NRA Special Contribution Fund. This method is entirely legal and proper and will result in a taxable income reduction equal to the gross profit (fair market value of the property minus the original cost of acquisition), without payment of capital gains or other income tax by the giver.

Many members may wish to so manage the size of their estate to reduce estate taxes after death. Here a gift of money or property from the estate to the NRA Special Contribution Fund is one means of building for future generations after you have gone. You should consult your attorney to have appropriate provisions added to your will.

The tax laws make it feasible and completely legal for corporations to donate funds to the NRA Outdoor Center and to reduce their net taxable income thereby. Up to 5 percent of a corporation's net annual income may be given to an eligible scientific or educational institution, such as the NRA Outdoor Center, under present tax laws.

Shooting clubs and State associations will have an important part in building the NRA Outdoor Center. Every type of promotional activity, such as special shoots, benefit barbecues, and other fund raising methods, will help.

The NRA Outdoor Center is both a present reality and a future potential. The reality is that the NRA owns almost 36,000 acres of land that is well adapted to the purposes and concepts of the NRA Outdoor Center. The potential is that development will be what the NRA membership wants and will pay for. An experienced blue-ribbon committee has been charged by NRA President C. R. Gutermauth with the capital development of this Outdoor Center. This committee is listening carefully to all segments of the NRA to be sure plans represent the membership's thinking and needs. Top quality facilities without gilt edging are being planned. Well-built improvements, such as ranges, training facilities, etc., will be cheapest and most satisfactory in the long run. The financial response of the membership will ultimately determine the quality and quantity of facilities completed at the NRA Outdoor Center.

Building the NRA Outdoor Center will take many years and millions of dollars. The membership of NRA has proved steadfast in support of the lasting programs of their Association. You can help. Now is the time!

[From the American Rifleman, June 1975]

RATON CENTER PLAN

The NRA Outdoor Center at Raton, N. Mex., will cost \$27 million to construct at today's prices, Fred M. Hakenjos, NRA past president and chairman of The Outdoor Center Committee, told the Board of Directors at San Diego.

This compares with \$16 million estimated for the feasibility study of two years ago "which was the basis for the Board decision to proceed with acquisition of the property," Hakenjos said. Inflation of "about 20 percent", particularly in the cost of roads, parking areas and utilities, is the cause of the gulf between the two figures, he said.

A six-page construction program is contemplated, spread over several years, with priority given to providing initial facilities for the Conservation Education Center on the north end of the property.

JULY 1, 1975.

CBS NEWS POLL FINDS STRONG PUBLIC SUPPORT FAVORING NATIONAL LAW FOR REGISTRATION OF ALL HAND GUNS

A CBS News poll on questions of gun control indicates that the American public strongly disagrees with President Ford's opposition to a Federal law requiring the registration of firearms. The poll found that the public strongly favors a national law requiring all handguns to be registered by a margin of 4 to 1.

The nationwide telephone poll of 889 people of voting age was conducted by the CBS News Election and Survey Unit during the week of June 16, the same week the President delivered his crime message to Congress. Some findings of the poll were broadcast last night, Monday, June 30, on the CBS Evening News With Walter Cronkite.

Almost half of those interviewed came from a family where they or an immediate member of the family own a rifle or handgun. Over two-thirds of these people (69 percent) support a nationwide law requiring the registration of handguns. Three-fourths (73 percent) of those interviewed who said they were Republicans also favored such legislation.

The CBS News poll found that other parts of the President's crime message received greater public support. Those interviewed favored the proposal calling for mandatory prison sentences for anyone committing a crime with a gun by a margin of 11 to 1, with people in families owning firearms slightly more in favor of mandatory jail terms than those who do not own such weapons.

Another of the President's proposals would ban the sale of "cheap" handguns, making it illegal to manufacture, assemble, or sell these guns, though it would not be illegal to own one. According to the poll, a small majority (51 percent) of the public would favor such a ban, except when used for purposes of law enforcement. Those in families who did not own firearms, and women, were more strongly in favor of the ban.

The complete results of the poll, based on three questions, are as follows:

(1) "Would you favor or oppose a nationwide law requiring all handguns to be registered?"

(In percent)

	Favor	Oppose	No opinion
Total.....	78	20	2
Own firearms.....	69	28	3
Don't own firearms.....	86	11	3
Republicans.....	73	24	3
Democrats.....	84	14	2
Independents.....	72	25	3

(2) "Would you favor or oppose mandatory prison sentences for anyone using a gun to commit a crime?"

(In percent)

	Favor	Oppose	No opinion
Total.....	88	8	4
Own firearms.....	92	6	2
Don't own firearms.....	85	10	5

(3) "Would you favor or oppose a ban on the sale of all hand guns with the exception of those that are authorized for law enforcement?"

(In percent)

	Favor	Oppose	No opinion
Total.....	51	45	4
Own firearms.....	36	62	2
Don't own firearms.....	66	29	5
Male.....	40	57	3
Female.....	60	35	5

The findings in the poll are subject to a sampling error of about plus or minus three percentage points.

Warren Mitofsky is Director of the CBS News Election and Survey Unit.

[The Harris Survey, for release: Thursday, July 20, 1972]

PERSONAL SAFETY OF POLITICAL CANDIDATES AND GUN CONTROL

(By Louis Harris)

Despite the shooting of Gov. George Wallace while shaking hands with voters in a shopping center earlier in the year, the American people still expect their candidates for President to campaign at close range in 1972. By a clear 57-34 percent, the public rejects the statement that "candidates should stop campaigning out in the open, mingling with crowds."

"The public holds this view in the face of widespread agreement with the position that "our political process has fallen apart when candidates can't campaign without fear of assassination." Part of the explanation for the apparent discrepancy lies in the rather fatalistic view of the American people that "individual shootings can happen at anytime," a proposition accepted by a nearly unanimous 97 percent.

"Although the public is resigned to the risks it feels candidates for the White House should and do take, there is still substantial public support for stiff gun control legislation.

A cross section of 1,401 voters was recently asked:

"Do you favor or oppose a federal law which would put strict gun control into effect, requiring that all hand guns be registered?"

HAND GUN REGULATION

(In percent)

	Favor	Oppose	Not sure
Total voters.....	70	27	3
By region:			
East.....	81	16	3
Midwest.....	69	28	3
South.....	63	34	3
West.....	62	36	2
By size of place:			
Cities.....	79	19	2
Suburbs.....	73	24	3
Towns.....	63	33	4
Rural.....	60	37	3
By presidential choice:			
Nixon.....	69	28	3
McGovern.....	79	19	2
Wallace.....	57	41	2

Majorities across the country favor tough gun control legislation. However, there are sharp differences by region and size of place of residence. The south and west least favor tough gun control laws, as is the case among rural residents. Ironically, the group most opposed to the registration of all hand guns are the supporters of George Wallace, who was felled by one himself last May.

In fact, backers of Gov. Wallace also disagree with the rest of the public on another key question—whether they believe the attempt on his life was the act of one man or part of a broader plot to kill him.

The cross section was asked:

"Do you feel the attempted assassination of Gov. George Wallace was the act of one man alone or do you think it was part of a broader plot?"

WALLACE SHOOTING

(In percent)

	Prefer			
	Nationwide	Nixon	McGovern	Wallace
Act of one man.....	60	65	68	37
Part of broader plot.....	28	25	22	50
Not sure.....	12	10	10	13

An even 50 percent of all Wallace supporters are convinced that the shooting of the Alabama Governor was "part of a broader plot" to kill him. When pressed to say what elements were behind the shooting, people who suspected a conspiracy were vague: 24 percent simply registered their conviction that it "must have been a plot"; another 10 percent accused "people who disliked Wallace" without being more specific; 6 percent mentioned that the alleged trigger man had been "paid travel money"; while another 6 percent charged that "Communists were behind it all."

The shooting of George Wallace shocked most Americans, but it did not change many people's attitude on the subject of gun control or their assessment of the state of public safety in the country. After the killing of Robert Kennedy four years ago, 81 percent agreed with the statement that "law enforcement has broken down in this country and lawlessness has taken over." After the Wallace shooting, the split on the same question was 52-43 percent in the affirmative. Although a consistent majority of 70 percent or better of the American people has favored stiff gun control legislation, the intensity of such views has not been sufficient to spur action by Congress up to now.

Nor has the sequence of acts of violence against prominent national figures changed the public view that candidates for high office should accept the risks of open campaigning.

The cross section was asked:

"Do you tend to agree or disagree that candidates for high office should stop campaigning out in the open, mingling with crowds of people?"

Should candidates stop campaigning out in open among crowds?

Total public
(percent)

Agree	84
Disagree	57
Not sure	9

[The Harris Analysis, Chicago Tribune, June 3, 1971]

66 PERCENT IN UNITED STATES BACK GUN CONTROL

(By Louis Harris)

Altho Americans favor "strict control and registration of handguns," by 66 to 30 percent, a plurality of the public, 49 to 43 percent, also agrees with the statement: "The way things are today, people should own guns for their own protection."

The ambivalence probably goes a long way toward explaining why Congress has had so much difficulty passing legislation providing for tighter control over gun ownership.

In principle, the idea of tight regulation of the purchase and possession of guns is popular with most of the public. But America is also a nation in which a majority of the household, [51 percent] possess some kind of a gun.

Recently, a cross section of 3,006 households was asked: "Do you favor or oppose Congress passing a law requiring strict control and registration of all hand guns?"

(In percent)

	Favor	Oppose	Not sure
Nationwide.....	66	30	4
Cities.....	71	25	4
Suburbs.....	75	24	1
Towns.....	64	33	3
Rural.....	56	38	6

There is a direct relationship between attitudes toward gun control laws and gun ownership. The same cross section also was asked: "Do you own a gun in your household or not?"

(In percent)

	Own gun	Don't own
Nationwide.....	51	49
By size of place:		
Cities.....	38	62
Suburbs.....	37	63
Towns.....	57	43
Rural.....	73	27
By region:		
East.....	32	68
Midwest.....	55	45
South.....	68	32
West.....	52	
By race:		
White.....	53	47
Black.....	44	56

Sentiment against gun control registration, in turn, runs highest among persons who live in rural areas and those in the South.

People also were asked: "Do you personally feel upset or not that there is not strict control and registration of hand guns in this country?"

Total public
(percent)

Feel upset.....	54
Not upset.....	43
Not sure.....	3

Typical of the majority feeling was a 48-year-old lawyer in Lexington, Ky., who said, "Without gun legislation, we're just asking for people to shoot each other up."

The opposition was summed up by a 64-year-old farmer in Keokuk County, Ia., who said, "Why, all that talk about gun legislation is just an effort on the part of city people to keep country folk from enjoying a little honest shooting."

Yet close to a majority of the public is willing to admit that gun ownership in America in the latter third of the 20th Century is perhaps necessary "for your own protection." The cross section was asked: "Do you tend to agree or disagree that the way things are today, people should own guns for their own protection?"

	Total public (percent)
Agree, should own for protection.....	49
Disagree	43
Not sure.....	8

[The Gallup Poll, for release, Saturday, July 1, 1972]

MAJORITY OF GUN OWNERS AS WELL AS NON-GUN OWNERS FAVOR TOUGHER LAWS

(By George Gallup)

Princeton, N.J., June 30—As has been the case for more than three decades, a majority of U.S. citizens—both gun owners and non-gun owners—say they would favor a law which would require a person to obtain a police permit before he or she could buy a gun.

In the latest survey, conducted in late May, 7 in 10 (71 percent) say they would favor such legislation, while 25 percent express opposition and four percent have no opinion.

Approval of gun registration is expressed by majorities in all population groups including owners of the three basic types of guns—pistols, shotguns and rifles.

Registration is favored at a time when the Senate Judiciary Committee has voted to ban the manufacture and sale of most snub-nosed handguns. The Democratic platform committee has also inserted a plank in the platform calling for tougher gun controls.

A majority of the people in this country have favored stricter gun laws for over three decades, as reported periodically by the Gallup Poll.

Proponents of gun laws point out that, since the beginning of the 20th century, 750,000 Americans have been killed by privately owned handguns—a third again as many as have been killed in all our wars.

Approval of requiring a police permit before purchasing a gun is found to be highest among college educated people, people living in the largest cities, and among women. Gun registration has bi-partisan appeal with almost identical percentages of Republicans and Democrats in favor.

The largest percentage opposed to requiring a police permit for purchasing a gun is found among persons living in the South and West and in the smallest communities. However, even in these areas large majorities favor registration.

Following is the question asked and the figures for key population groups.

Would you favor or oppose a law which would require a person to obtain a police permit before he or she could buy a gun?

FAVOR POLICE PERMIT TO BUY GUN?

(In percent)

	Favor	Oppose	No opinion
National.....	71	25	4
Men.....	65	31	4
Women.....	77	18	5
College.....	74	23	3
High school.....	71	25	4
Grade school.....	67	27	6
East.....	77	19	4
Midwest.....	72	25	3
South.....	68	27	5
West.....	64	30	6
1,000,000 and over.....	83	14	3
500,000 to 1,000,000.....	75	20	5
50,000 to 500,000.....	73	25	2
2,500 to 50,000.....	66	27	7
Under 2,500.....	63	32	5
Republicans.....	73	22	5
Democrats.....	72	23	5
Independents.....	70	27	3

VIEWS OF GUN OWNERS ON POLICE PERMIT

(In percent)

	Favor	Oppose	No opinion
All gunowners.....	61	34	5
Pistol owners.....	62	35	3
Shotgun owners.....	57	38	5
Rifle owners.....	59	38	3
Non-gunowners.....	80	16	4

GUN OWNERSHIP GREATEST IN SOUTH

About a fourth of all American households have either a shotgun or a rifle. About one home in six has a pistol.

Gun ownership is highest in the South where a majority (55 percent) of residents say there is some kind of gun in their homes. Ownership of guns is also high in the Midwest.

A direct correlation is found between gun ownership and size of community, with guns least likely to be owned in the largest cities.

Following is the question asked to determine gun ownership.

Do you happen to have in your home any guns or revolvers? (If yes) Is it a pistol, shotgun or a rifle?

The table below shows the percentage of households having any gun, and the basic types of guns owned.

GUN OWNERSHIP IN THE UNITED STATES

(In percent)

	Have gun in home	Pistol	Shotgun	Rifle
National.....	43	16	27	26
East.....	29	10	16	19
Midwest.....	49	16	32	29
South.....	55	20	35	27
West.....	38	16	20	29
Community size:				
1,000,000 and over.....	20	11	9	12
500,000 to 1,000,000.....	30	13	15	19
50,000 to 500,000.....	40	14	22	21
2,500 to 50,000.....	45	19	30	29
Under 2,500.....	66	20	44	40
College.....	36	15	21	24
High School.....	44	16	29	27
Grade school.....	50	14	28	25
Whites.....	45	16	28	28
Blacks.....	33	11	15	11

Note.—The survey results reported today are based on interviews with 1,540 adults, 18 and older, interviewed in person in more than 300 scientifically selected localities across the Nation during the period May 26 through 29.

{From the Washington Post, June 30, 1975}

27 PERCENT OF HOUSE MEMBERS OWN HANDGUNS

(By William Greider and Barry Sussman)

Members of the U.S. House of Representatives are better armed than the American people they represent.

A survey of the House conducted by The Washington Post shows that 27 percent of the 435 House members own handguns—compared with 18 percent of households in the general public found owning guns in a survey by the Gallup Poll.

The Post survey results, which are drawn from responses by 60 percent of the House members, suggest that approximately 115 House members own pistols.

While 67 percent of the general public favors legislation to require the registration of handguns, a majority of the House members oppose it—57 percent, according to the survey.

The opposition, however, is related only slightly to whether a member of Congress owns a gun. Among gun owners, 68 percent oppose any form of firearms registration—but so do 52 percent of their colleagues who don't own guns.

The best-armed members of Congress are the Southerners—42 percent of them report that they own a handgun, compared with 18 percent of the representatives from the Northeast, 29 percent from the West, 24 percent from the Midwest and 21 percent from the border states. Freshmen are slightly less likely to own a handgun than the veterans, but they are slightly more opposed to gun-control registration.

Conservatives are much more likely to own a handgun than liberals. Forty percent of the conservatives own them, compared with 18 percent of the liberals and 28 percent of the moderates.

The gun owners in Congress tend to come from small towns and rural areas, while only 13 percent of the big-city members of Congress own handguns. In terms of gun ownership, there is no significant distinction between white and black members of Congress or Democrats and Republicans. None of the 13 women in Congress who responded to the survey reported owning a gun.

The pattern of who owns handguns in Congress is roughly consistent with the Gallup Poll's findings on who owns guns in the general public—particularly Gallup's conclusion that high-income families are more likely to own handguns than low-income families. In the Gallup survey, for instance, 24 percent of the households with incomes of \$20,000 or more own handguns, compared with 15 percent of those with incomes from \$7,000 to \$10,000.

How House members responded when asked about gun control :

(In percent)

	House	Gun owners	Nongunowners
Register all firearms.....	28	19	32
Register, handguns only.....	15	13	16
Opposes registration but favor other controls.....	28	34	25
Oppose all legislation.....	29	34	27

[From the Christian Science Monitor, Aug. 12, 1975]

MOST CRIMES NOT REPORTED

(By Clayton Jones)

Americans rank crime as the nation's most serious problem. Yet most citizens fail to report acts of violence and theft to police.

A door-to-door survey of crime victims in 13 U.S. cities—from Boston to Minneapolis to San Francisco—by the U.S. Bureau of the Census indicates that less than half of all crimes against persons and households are reported to police.

A recent Gallup poll shows a record-high 45 percent of Americans are afraid to walk in their neighborhoods at night.

And residents of U.S. cities cite crime as the nation's top problem—ahead of unemployment, cost of living, and ineffective police, Mr. Gallup says.

Two to five times more actual crime exists in U.S. cities than reported crimes, according to the study of victims conducted in 1973 by the U.S. Census Bureau for the Federal Law Enforcement Assistance Administration (LEAA) and released last week.

In San Diego, for instance, only two out of every five violent crimes were reported to police in a poll of nearly 200,000 incidents.

Similar figures are cited for Boston, Buffalo, Cincinnati, Houston, Miami, Milwaukee, Minneapolis, New Orleans, Oakland, Pittsburgh, San Diego, San Francisco, and Washington.

The picture painted by the LEAA effort is one of citizen lack of confidence in police ability to solve crime—yet police respond by saying citizen failure to report crimes hinders crime-fighting.

Citizens of Miami and Washington were least likely to be crime victims while citizens of San Francisco and Minneapolis were the most susceptible to crime in 1973, the survey shows.

The rates of personal crimes of violence per 1,000 residents were 71 in San Francisco, 70 in Minneapolis, 67 in Boston, 63 in Cincinnati, 61 in Oakland, 53 in Houston, 53 in San Diego, 49 in Buffalo, 47 in Pittsburgh, 46 in New Orleans, 31 in Washington, and 22 in Miami.

The burglary of homes ranged from 75 per 1,000 households in Washington to 177 in Minneapolis.

The low showing for the nation's capital in the crime tally surprises officials, but the city has the highest number of police per resident of any major city, they point out. (Car thefts ranged from 15 per 1,000 households in Washington to 86 in Boston.)

A past LEAA study of the five largest U.S. cities showed the chief reason citizens gave for failing to report crimes to authorities was that "nothing could be done because there was no proof."

The LEAA survey is the beginning of a permanent crime-victim poll to determine the nature of crime and how citizens and police are coping with it.

[From the Washington Post, July 29, 1974]

ONE HOUSEHOLD IN EVERY FOUR IS VICTIMIZED BY CRIME

(By George Gallup)

PRINCETON, N.J.—One household in every four in the United States has been hit by crime at least once during the last 12 months, with either property stolen or a member of the household a victim of an assault or mugging.

The picture is still more shocking in the case of households in the nation's largest cities (populations of 500,000 and over) where one household in three has been struck in the past year.

Statistics based on police reports paint a grim picture of growing crime. Yet the situation is, if anything, worse, since the current survey shows almost four in 10 incidents were not reported to police.

The survey results indicate that non-whites and lower income persons are somewhat more likely to have been victimized than whites and upper income groups, particularly in crimes against persons.

The following table shows the percentage of households struck by various types of crime, with 1972 figures for comparison.

The following questions were asked in the survey:

During the last 12 months, have any of these (list of crimes handed to respondent) happened to you? Did you happen to report this to the police, or not?

(In percent)

	1972	Today
Households:		
Home broken into, or attempt made.....	7	8
Money or property stolen.....	8	11
Property vandalized.....	8	10
Car stolen.....	2	2
Persons: Assaulted or mugged; money or property taken from person by force or threat of force.....	2	2

Note.—As the table below indicates, a large percentage of crimes are not reported to the police (in percent):

	All incidents	Reported incidents
Households:		
Home broken into, or attempt made.....	8	5
Money or property stolen.....	11	7
Property vandalized.....	10	7
Car stolen.....	2	2
Persons: Assaulted or mugged; money or property taken from person by force or threat of force.....	2	2

[Harris Survey, Chicago Tribune, Oct. 27, 1975]

77 PERCENT MAJORITY FAVORS GUN REGISTRATION LAW

(By Louis Harris)

By an overwhelming 77 to 19 percent majority, Americans favor passage of a "federal law requiring that all handguns be registered with federal authorities."

The latest results of the Harris Survey show a sharp increase in public support for the registration of handguns; in 1971, a 66 to 30 percent majority favored such a law.

A slightly smaller majority, 73 to 24 percent, supports "federal laws which would control the sale of guns, such as making all persons register all gun purchases no matter where the purchases are made."

And by 66 to 30 percent, a majority believes "a permit should be required by law in order for anyone to purchase a rifle," a practice not now followed in most places.

The survey, conducted between Oct. 6 and 13 among a national cross-section of 1,519 adults, also found that 74 percent of American families own guns, representing a rise since 1968, when 41 percent said they owned one.

Gun ownership is far lower in the East, where only 29 percent of the households report owning guns, compared to 61 percent in the South, 52 percent in the West, and 50 percent in the Midwest.

Fifty seven percent of families in small towns have guns, while in rural areas, 68 percent report owning them. Of the guns owned, 70 percent say they own a rifle; 66 percent, a shotgun; 49 percent, a pistol or handgun; and 7 percent, a muzzle loader.

Despite strong public support for stiff gun-control legislation, a narrow 51 to 44 percent majority of those surveyed don't believe there "would be less violence in this country if laws were passed making it harder for people to get guns." City and suburban dwellers tend to believe that violence will be curbed with gun-control laws, but small-town and rural residents disagree.

When asked what the major contributors to violence are in the country today, 75 percent name "organized crime"; 65 percent, "radical revolutionary groups"; 61 percent, "urban guerrilla groups"; 61 percent, black militant groups"; 54 percent, "left-wing radical groups"; 54 percent, "communists"; 52 percent, "extreme right-wing militant groups"; and 49 percent, "the easy availability of guns."

The results show the public believe the causes of society's violence go far beyond simply the lack of stiff gun-control laws. The activities of both left-wing and right-wing revolutionary and guerrilla groups and of organized crime are viewed as leading root causes of violence today.

Nonetheless, 49 percent of those surveyed believe "the easy availability of guns" is a major contributor to violence, and 29 percent believe it is a "minor contributor." Thus, 73 percent feels gun control is a step that could help keep violence under control.

The Harris Survey asked its sampling: "Do you favor or oppose a federal law requiring that all handguns be registered with authorities?"

	Percent
1975:	
Favor	77
Oppose	19
Not sure	4
1977:	
Favor	66
Oppose	30
Not sure	4

It is apparent that sentiment for gun control has risen in the last four years. The use of "Saturday night specials" in killings of policemen and in other murders has clearly aroused much public indignation over indiscriminate sales of pistols.

The cross-section was also asked: "Do you favor or oppose federal laws which would control the sale of guns, such as making all persons register all gun purchases no matter where the purchases are made?"

(In percent)

	Favor	Oppose	Not sure
Nationwide	73	24	3
By region:			
East	85	12	3
Midwest	73	23	4
South	62	34	4
West	70	27	3
By size of place:			
Cities	76	19	5
Suburbs	75	20	5
Towns	75	23	2
Rural	64	32	4

Although support for registration of gun purchases is less evident in the South and in rural areas, majorities all over the country favor such gun registration.

A strong test of the public's desire to control the purchase of guns emerged when the respondents were questioned about rifles: "Do you feel a permit should be required by law to purchase a rifle, or do you think such a permit is not necessary?"

(In percent)

	Favor	Oppose	Not sure
Nationwide.....	66	30	4
By region:			
East.....	79	17	4
Midwest.....	63	33	4
South.....	58	39	3
West.....	63	33	4
By size of place:			
Cities.....	68	27	5
Suburbs.....	73	24	3
Towns.....	67	31	2
Rural.....	56	40	4

Once again, a clear national majority favors requiring permits from legal authorities for people to buy rifles. There is no doubt from these results where Americans stand on gun-control legislation.

[From the Sacramento, Calif., Union, July 6, 1975]

GUN OWNERSHIP IN HOME

(By George Gallup)

PRINCETON, N.J.—Although the latest nationwide survey gives further evidence of America's historical attachment to firearms—nearly half of all households have at least one gun—a majority of gunowners as well as non-owners favor registration of all guns.

The survey, which was based on interviews in 3,108 households, reveals that 44 per cent of those households have at least one gun—pistol, shotgun or rifle.

The highest proportion of households have a shotgun (26 per cent) or rifle (also 26 per cent), followed by a pistol or handgun (18 per cent).

Gun ownership is highest in the nation's smaller communities and in the South where a majority of residents (58 per cent) say there is some kind of gun in their homes.

Sharp differences are found on the basis of income level, with higher income persons more likely to own guns.

The Washington Post recently reported that members of the House of Representatives are better armed than the American people they represent. A recent survey conducted by the Post shows that 27 per cent of the 435 House members own handguns. This compares with 18 per cent of households in the general public, as reported by the Gallup Poll.

Despite the widespread ownership of guns, a majority of gunowners as well as non-owners favor the registration of all firearms. In the latest survey, 55 per cent of gunowners and 76 per cent of non-owners favor registration. The percentage for this nation as a whole—gunowners and non-owners alike—is 67 per cent. Thus President Ford, who recently took a strong stand against registration, is clearly out of step with public opinion on this issue.

Following are the results on gun ownership :

GUN OWNERSHIP IN HOME

[In percent]

	Have gun in home	Shotgun	Rifle	Pistol
Nationwide.....	44	26	26	18
East.....	31	18	19	11
Midwest.....	46	31	25	15
South.....	58	36	31	28
West.....	40	18	28	19
Community size:				
1,000,000 and over.....	22	12	11	9
500,000 to 999,999.....	29	14	12	15
50,000 to 499,999.....	37	20	20	17
2,500 to 49,999.....	51	29	30	24
Under 2,500.....	68	47	43	24
Whites.....	49	29	28	19
Nonwhites.....	31	14	10	15
Northern whites.....	42	26	26	16
Southern whites.....	60	38	34	29
Professional and business.....	43	23	26	18
Clerical and sales.....	35	21	21	15
Skilled manual labor.....	56	38	33	23
Unskilled manual labor.....	44	25	25	18
Income:				
\$15,000 and over.....	52	31	33	25
\$10,000 to \$14,999.....	47	30	28	17
\$7,000 to \$9,999.....	42	27	21	15
\$5,000 to \$6,999.....	40	20	21	16
\$3,000 to \$4,999.....	34	18	16	15
Under \$3,000.....	32	17	19	13

The results reported today are based on two nationwide surveys of adults, 18 and older, interviewed in person in more than 300 scientifically selected localities in the nation. The first survey was conducted March 7-10 with 1,542 persons; the second was conducted March 28-31 with 1,566 persons.

[From the Washington Post, July 6, 1975]

GUN OWNERS FAVOR CONTROLS

(By George Gallup)

PRINCETON, N.J.—Although the latest nationwide survey gives further evidence of America's historical attachment to firearms—nearly half of all households have at least one gun—a majority of gun-owners as well as non-owners favor the registration of all guns.

The survey, based on interviews in 3,108 households, reveals that 44 per cent of those households have at least one gun—pistol, shotgun or rifle.

The highest proportion of households have a shotgun (26 per cent) or rifle (also 26 per cent), followed by a handgun (18 per cent).

Gun ownership is highest in the nation's smaller communities and in the South, where a majority of residents (58 per cent) say there is some kind of gun in their homes.

Sharp differences are found on the basis of income level, with higher income persons more likely to own guns.

In the latest survey, 55 per cent of owners and 76 per cent of non-owners favor registration. The percentage for this nation as a whole—owners and non-owners alike—is 67 per cent. Thus President Ford, who recently took a strong stand against registration, is clearly out of step with public opinion on this issue.

The results on gun ownership :

[In percent]

	Have gun in home	Shotgun	Rifle	Pistol
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50,000 to 499,999.....	37	20	20	17
2,500 to 49,999.....	51	29	30	24
Under 2,500.....	68	47	43	24
Whites.....	49	29	28	19
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Unskilled manual labor.....	44	25	25	18
\$15,000 and over.....	52	31	33	25
\$10,000 to \$14,999.....	47	30	28	17
\$7,000 to \$9,999.....	42	27	21	15
\$5,000 to \$6,999.....	40	20	21	16
\$3,000 to \$4,999.....	34	18	16	15
Under \$3,000.....	32	17	19	13

The results reported today are based on two nationwide surveys of adults interviewed in person in more than 300 scientifically selected localities in the nation. The first survey was conducted March 7-10 with 1,542 persons; the second was conducted March 28-31 with 1,566 persons.

CONGRESS OF THE UNITED STATES,
Washington, D.C., October 28, 1975.

Hon. JOHN CONYERS, Jr.,
U.S. House of Representatives,
Rayburn House Office Building, Washington, D.C.

DEAR JOHN: In case you have not already received several yourself, I am enclosing a copy of a letter I have received on the gun control issue. Perhaps this letter should be included in your Subcommittee report as an example of the attempted intimidation of supporters of gun control legislation. I hope that your Subcommittee will report a strong bill fairly soon.

Sincerely,

WALTER E. FAUNTROY.

A TIME TO REGISTER, BUT NOT GUNS!!!

Don't register handguns regardless of any law. They cannot lock up 80 million people. The American people long believed that they could trust their government. We now know better.

Crime of the Prohibition Era will seem like a PTA meeting in comparison to what will happen if guns are registered nationally. Big crime will run the guns, just like the moonshine!!

REGISTER PEOPLE!!

If laws are passed to infringe the people's rights to keep and bear arms, guaranteed by the Constitution, Americans will be forced to take deplored citizen action, but no choice.

REGISTER the people working to take your Constitutional right to own and bear arms as guaranteed by the 2nd Amendment. These people are criminals.

Make a written list (start now). It could be called "Special Guests, Saturday Night Frolic", etc. If you don't do it you will overlook important "guests". List judges, lawyers, politicians, school teachers, newspaper people, and individuals

who have supported gun registration. Also, land use officials, OSHA officials, and IRS officials and agents—all who are violating the Constitution.

Special action: Don't register any guns, if a gun registration law is passed. And be prepared to shoot the first person who you know is picking up guns. Decide now at what point you are to take action. Use tactics used by big crime, i.e., a visit in the night with a shotgun blast at a distant location.

All people listed above should be treated the same. A person shooting a judge in the courtroom is nuts! A visit to his home in the night, or when he is on the way home, is something else. Use your head!!!

It IS time to take a stand. No country was ever taken over by the communists until the people's guns were registered and taken. People don't make much of a showing against tanks and rifles with stones and bottles.

The government is not interested in protecting you! The criminal is back on the street before the victim is out of the hospital. It is not gun control they want, but people control. This means the people must be disarmed first.

Thomas Jefferson said in the Declaration of Independence that it was the right and duty of the people to rise up and restore the Constitution when those in government sought to destroy it. It appears that the time has come.

WILL THE FOLLOWING BE THE HEADLINES OF THE NEAR FUTURE?

"Millions of Formerly Peaceful, Law-Abiding Citizens Up in Arms"—"Vigilantes of One and Two Persons Take Law Into Own Hands"—"Politician Cut in Two By Shotgun Blast As He Steps From Car"—"Bureaucrat Shot As He Waits At Stoplight"—"Federal Judge Killed By Bomb Blast As He Starts Car"—"Judge Found Dead, Hands Tied Behind Back, Throat Cut"—"Congressman Believed Poisoned"—"Land Use Planner Found Hung Under Bridge"—"U.S. Senator Found Hanging From Limb of Tree on River"—"Two Congressmen Missing, Feared Dead—Resembles Hoffa Disappearance."

Notify your politicians that you are not going to register your guns. A strong America depends upon an armed citizenry. Only free people have guns! If you own a gun, learn to use it. Teach your entire family how to use one safely. If you don't want a gun purchase recorded in your name, *have some elderly person buy it for you* or purchase one of the millions of privately owned guns.

If they pass an unconstitutional registration law, find out who the agent is who is picking up unregistered guns, and *go and let him have it, right between the eyes! Then reload the gun*, so if the politician who swore to uphold the Constitution and voted to take your rights is around, you can give it to him also. *Do it in the night with careful planning.*

The time to prepare is now. Make all the copies you can afford of this sheet, and mail it anonymously. Mail to your friends and all the people on your guest list. Maybe, just maybe, if we make ourselves heard, violence can be avoided. Any copy machine or printing shop can make copies.

Will what happened near Wounded Knee to the FBI agents become a daily occurrence with those mentioned above?

WORDS AND ACTIONS NOW OR BULLETS AND BLOOD LATER

(Printed originally by "Americans United for Freedom")

NOTE.—The sender neither endorses nor condemns this sheet. Readers are asked to evaluate for themselves.

[From the New York Times, Oct. 21, 1975]

U.S. LIST OF ARMS PRODUCERS AND EXPORTERS SHOWS MORE THAN 1,000 CONCERNS

(By Richard D. Lyons)

WASHINGTON, Oct. 20.—Making and selling munitions to foreign armies is so lucrative that more than 1,000 American companies are legally engaged in either producing or exporting weapons.

The Federal registration certificates of these companies, which were made public for the first time by the State Department's Office of Munitions Control at the request of The New York Times, provide an extensive overview of their operations.

The materials turned over by the State Department, more than 2,000 copies of documents weighing some 25 pounds filled a large cardboard box. The documents may be obtained from the department's Freedom of Information Office at a cost of 20 cents per page plus fees for secretarial help.

Many American companies, long identified with such consumer products as refrigerators, stoves, sewing machines, washers, cameras and toys, are also producing items labeled as "arms, ammunition and implements of war" on the United States munitions list, a compendium of products labeled as war materials under various acts of Congress.

In many cases the material consists of sophisticated electronic equipment such as laser range finders, night-viewing devices and underwater acoustical gear, reflecting the high state of American technology that has helped raise overseas sales of this country's munitions industry to \$11 billion a year.

\$100-BILLION WORTH

But lesser munitions items are exported by hundreds of small companies whose ammunition for American-made guns and spare parts for tanks and planes attest to the great amount of military equipment this country has either sold, lent or given away since World War II—about \$100-billion worth.

Many of these smaller companies are clustered in the shipping district in lower Manhattan, near the Pentagon and the headquarters of the Central Intelligence Agency here, and in such gun-running neighborhoods as southern Florida and near the Mexican border.

The giant corporations are well represented. Among the 1,033 companies licensed to make or export arms are 152 of the "Fortune 500," Fortune magazine's listing of the biggest industrial companies. Among the 152 are 32 of the largest 50.

The documents furnished by the State Department attest to the fact that a vast array of military hardware is being offered for sale by American industry, some of it by companies not identified in the public mind as arms-makers.

NOT JUST SEWING MACHINES

The Singer Company, famous for over a century for its worldwide sales of sewing machines, devoted seven and a half pages in its registration form to 182 "United States munitions list articles manufactured and/or exported."

The items included electronic reconnaissance systems, intrusion warning devices, infrared surveillance systems, landing approach systems, laser measurement equipment, hydrofoil control equipment, gyrocompass systems, grenade launcher components and a host of other sophisticated equipment.

The Bulova Watch Company, another New York-based corporation long identified with consumer products, reported its munitions list products as:

"Fuzes and components therefor, mechanical and electronic ammunition manufacturing machines, devices for activation and devices for detonation of missiles, missile safety control switches, missile safe and arming devices, missile fuzing devices, quartz crystals, oscillators and timers, power supplies and converters, landing system."

FORD'S LONG LIST

Many of the larger companies, the Ford Motor Company for example, manufacture so many different types of armaments that a special attachment to the munitions control registration form is needed to list them all. Ford reported that it "manufactured and/or exported" the following:

"Firearms and components; guns over caliber .50; ammunition components and parts; launch vehicles; guided missiles, ballistic missiles and rockets and components for above; gun and gun sight mounts and missile systems for vessels of war and other special naval equipment; tanks and military vehicles and specifically designed components; aircraft, spacecraft and associated equipment; military training equipment, military body armor; military and space electronics; fire control, range finder, guidance and control equipment; auxiliary military equipment, including space camera, speech scramblers and cryptographic devices and components, and armor plate; technical data."

The General Motors Corporation reported 10 pages of munitions list items, starting with rifles, bayonets, mortars and flame throwers and ranging into "biological agents adapted for use in war to produce death or disablement in human beings or animals, or to damage crops and plants."

E. I. du Pont de Nemours & Co., which can trace its involvement in munitions to supplying powder to Washington's troops during the Revolutionary War, sells a wide variety of weapons either through the parent company or a subsidiary, the Remington Arms Company of Bridgeport, Conn.

But such giant concerns are not the leaders in export arms sales, because the largest part of a military budget these days is spent on aircraft, jet engines, missiles, rocketry, helicopters and the electronic that guides equipment and protect such warcraft.

Reflecting this, seven of the 10 largest weapons exporters are involved in aerospace products: Northrop, McDonnell Douglas and LTV Corporation, jet fighters and fighter-bombers; Textron and United Aircraft, helicopters; Hughes Aircraft, missiles and electronics, and General Electric, jet engines.

The three other leaders, Chrysler, American Motors and FMC Corporation, sell tanks, jeeps and armored personnel carriers, among other munitions.

Underscoring the trend toward electronics, munitions list registrants include scores of such corporate names as Electronic Assistance Corporation, Red Bank, N.J., Electro Switch Corporation, Weymouth, Mass., Electronic Memories and Magnetic Corporation, Los Angeles, Electronic Space Systems Corporation, Concord, Mass., Electronics Corporation of America, Cambridge, Mass., Electrophysics Corporation, Nutley, N.J., and Electrosonics, Ltd., Sacramento, Calif.

The academic world is also represented. The Calspan Corporation, which gives its address as P. O. Box 235, Buffalo, N.Y. 14221, lists its parent or holding company as Cornell University.

SYRACUSE UNIVERSITY CONCERN

Calspan said it exported technical data, specifically a "proposal for consultant study of an electronic warfare test facility." The company's registration said it had either produced or exported "various [munitions] list items including the above for about 25 years" and that its customers had included the Army, Navy, Air Force, National Aeronautics and Space Administration and Atomic Energy Commission.

Another college-related registrant is the Syracuse University Research Corporation, founded in 1957. The company reported exporting a wide variety of munitions list items for aircraft and spacecraft, including "classified articles."

The Federal Cartridge Corporation of Minneapolis, a maker of firearms and ammunition, reported its parent company as the Olin Foundation, a charitable foundation, of 99 Park Avenue, New York.

The Arabian American Oil Company (Aramco)—owned 60 per cent by the Exxon Corporation, Texaco, Inc., the Standard Oil Company of California and the Mobil Oil Corporation—reported exporting from the United States the following munitions list items:

"Firearms, ammunition, explosives, aircraft and related articles, military electronics, auxiliary military equipment and miscellaneous articles."

Dozens of subsidiary companies are engaged in the production of munitions list items far removed from the products usually associated with their parent corporations.

The Ex-Cell-O Corporation of Detroit, well known to model makers for its hobby knives, reported that a subsidiary, the Cadillac Gage Company, "manufactures and sells the commando armored car, the Stoner 63-A weapon system and power control systems for certain models of U.S. main battle tanks."

Illinois Central Industries, Inc., of Chicago, which started in the corporate world as the Illinois Central Railroad, reported that a subsidiary, the Abex Corporation of 530 Park Avenue, New York, makes and sells eight categories of items on the munitions list.

CANNING JARS

The Ball Corporation of Muncie, Ind., noted for its home canning jars, reported that its Ball Brothers Research Corporation of Boulder, Colo., manufactures aerospace drive assemblies, pointing controls and space lubrication.

The National Lead Company, which became N L Industries of New York, is involved in the munitions business through its Doehler-Jarvis Division, which makes artillery, missile and aircraft components.

Some American arms-makers selling abroad are themselves subsidiaries of foreign companies.

I C I United States, Inc., of Wilmington, Del., is a subsidiary of Imperial Chemical Industries of England. The United States subsidiary reported 14 munitions list items, including "classified material."

Engelhard Minerals and Chemical Corporation of Murray Hill, N. J., is owned 30 per cent by HD Development Limited of Luxembourg. Engelhard reported making and exporting parts for military aircraft and sea vehicles.

The Howmet Corporation of Greenwich, Conn., an exporter of aircraft parts, is a subsidiary of Compagnie Pechiney, Paris, Levy Auto Parts of Washington, which exports spare parts for armored vehicles, is a subsidiary of Levy-Russell Limited, Toronto. Georex Inc., of Houston, which exports satellite navigation systems, is a subsidiary of Compagnie Generale de Geophysique, Massy, France. Some of the export items are unusual, such as letter bomb detectors and balloons. Tradeways Limited of Washington reported exporting an "antidote for nerve gas."

The Rector International Corporation of Mount Vernon, N.Y., said in its registration that its exports were so various that "the list of items is very hard for us to compile." It went on:

"In the past, we have exported items ranging from armored cars to mine detectors. We are currently working on an order for submachine guns and have exported ammunition. We will quote and request licenses on any items which our foreign clients wish to purchase."

And then there is the Joy Manufacturing Company of Pittsburgh. It reported producing a wide variety of components for missiles, rockets, warships, tanks, aircraft, torpedoes, mines and bombs.

[From the New York Times, Oct. 5, 1975]

GUNS: GROWTH IN A SENSITIVE INDUSTRY

SALES DEFY RECESSION—CONTROLS ARE FEARED

(By Michael C. Jensen)

The \$550-million-a-year United States gun industry was having a good year until last month. Sales were high, profits were satisfactory, and the industry's myriad critics were reasonably quiet.

Then two California women allegedly pulled guns on President Ford and suddenly storm clouds began to gather.

It seems unlikely that the incidents will seriously dampen the expectations for sales of about six million handguns, rifles and shotguns in the United States this year.

But, as explained by John V. Browning, president of the Browning Arms Company, one of the nation's largest gun sellers and one of the few prominent independents in the field. "There's an uproar every time we have an assassination attempt."

What is preoccupying the industry in the wake of last month's gun incidents is their effect on gun control legislation—the bete noire of the industry—and ultimately, on sales.

The gun industry dominated by the subsidiaries of such conglomerates as Coit Industries, the Olin Corporation and the Bangor Punta Corporation (E. I. du Pont de Nemours, the chemical company holds a majority interest in another large producer) has shown remarkable stability over the last decade.

Occasional sales spurts have developed in the wake of concern on the part of nonhunters over protection, but for the most part the guns manufactured by leading companies have been bought by sportsmen for hunting and target shooting, and by police and enforcement departments. The great fear on the part of industry is that strict gun control laws would make it difficult for their steady customers in the private sector to buy weapons.

George A. Chandler, president of Olin's Winchester group, summed up the gunmakers' view: "With no evidence that gun controls have been effective in reducing crimes committed with guns, we see little point in proliferating new gun control laws that would be heeded only by law-abiding citizens."

A similar theme was sounded by a spokesman for the Remington Arms Company, the du Pont affiliate. "Obviously we deplore assassination attempts," he said, "and we endorse the idea of controls on mail order sales. But we're not in the Saturday night special business."

While industry executives tend to point the finger at Saturday night specials—cheap, short-muzzled, low caliber handguns often used by muggers, hold-up men and murderers—the fact is that in the recent gun incidents involving President Ford and in other attacks on prominent Americans in recent years, it was high quality weapons, manufactured by well known gun makers that predominated.

THE MAJOR GUN MANUFACTURERS SALES AND EARNINGS, 1974 (IN MILLIONS)

	Sales	Earnings
Winchester (division of Olin).....	\$311.3	\$9.2
Remington Arms.....	172.1	9.1
Browning.....	40.3	14.1
Colt Firearms (division of Colt Industries).....	57.0	16.9
Smith & Wesson (subsidiary of Bangor Punta).....	58.1	19.9

¹ Before interest expense and income tax.

² Before taxes.

³ Before taxes and overhead and administrative expenses.

It was a Colt .45-caliber semi-automatic pistol that Lynette Fromme allegedly aimed at the President, and a Smith & Wesson .38-caliber pistol that Sara Jane Moore allegedly fired at him in California last month.

A .44-caliber pistol made by Charter Arms, a small but well regarded manufacturer in Connecticut that sells to police departments, was seized from Mrs. Moore by California police the day before she allegedly fired at President Ford.

In other incidents, a Remington 30.06 pump rifle was used by James Earl Ray in 1968 to slay Dr. Martin Luther King Jr., and a Charter Arms .38-caliber pistol by Arthur Bremer in 1972, to shoot and cripple Governor George C. Wallace of Alabama.

In only two recent instances were weapons considered to be Saturday night specials or mail-order guns employed. One was the Italian Army rifle used to kill President John F. Kennedy, and the other was a cheap .22-caliber handgun used to kill his brother, Robert, when he was campaigning for the Democratic Presidential nomination.

By most Government estimates, there are 2 million to 3 million handguns manufactured each year in the United States. Estimates on the number of additional handguns that are imported range from 400,000 to 900,000. Perhaps 40 million handguns now exist in the United States.

A quarter to a half of all the handguns manufactured in the United States are Saturday night specials, and it is on such weapons that most of the adverse publicity has fallen.

High-quality handguns sell for \$100 and up, while Saturday night specials—made by such companies as Buddie Arms of Fort Worth, Clerke Technicorp of Santa Monica and Firearms Import and Export, the Valor Corporation and R.G. Industries, all of Miami—go for as little as \$20. The specials, however, command as much as \$75 or more on the black market.

The prospect for Congress passing control legislation on the specials, which bear such names as the Clerke "First", the IMP and the F.I.E. Titan, is considered reasonably good.

Even with legislation, however, most experts believe a problem will remain—studies have shown that the cheap models are responsible for less than half the gun-related crime in America.

During the recession of 1974 and early 1975, at a time when many industries were faltering, the gun industry more than held its own.

There are few readily available statistics, but the National Sporting Goods Association reports that the sale of firearms plus other hunting equipment rose from \$776 million in 1973 to \$967 million in 1974, and is holding about steady this year.

Of the total guns accounted for slightly more than half, an association spokesman said, with the remainder going for ammunition, other hunting equipment and clothing. Shotguns are selling better this year than last, the spokesman added, with handguns and rifles down slightly.

In fiscal 1975, ended on June 30, about 5.8-million pistols, revolvers, rifles and shotguns were sold, up from 5.6-million in fiscal 1974 and 4.8-million in fiscal 1973.

Among the nation's top five gun makers, four are owned either wholly or in part by large conglomerate-type companies. Olin's Winchester, one of the two

largest, had sales last year of \$311.3-million and showed a pre-tax loss of \$9.2-million, reflecting the costs of modernizing a plant.

Au Olin spokesman said the Winchester group, which also makes military ordnance systems, skis and camping equipment, just about broke even last year on operations.

Winchester's sales of sporting arms and ammunition are running slightly ahead of last year, the spokesman added, and earnings of the Winchester group as a whole were higher during the first half of 1975 than they were in the comparable period of 1974.

The Remington Arms Company, the other member of the big two, 63.75 per cent owned by du Pont, had sales last year of \$172.1-million with net profits of \$9.1-million.

The company's sales were up 16 percent during the first half of this year, and profits rose 53.2 percent to \$9.5-million. Because Remington does much of its business during the first half, its sales and earnings are disproportionately clustered in the first half. Nevertheless, the increase has been sharp.

Remington does not sell handguns, but it is setting a record this year in rifle and shotgun sales, a spokesman said, partly because of price increases.

According to trade sources, ammunition and firearms account for one-half and one-third of Remington's over all volume, respectively. The company also produces powder metal parts for manufacturers and abrasive cutting products.

Another large gun-manufacturer, Smith & Wesson, had sales of \$58.1-million during fiscal 1974, and pretax earnings of \$9.9-million (before overhead and other administrative expenses). It is a division of Bangor Punta and in addition to handguns and sporting arms sells Chemical Mace.

During the first nine months of the current fiscal year, through June 30, Smith & Wesson reported sales of \$51.3-million, up 16 percent from the same period last year, and a pre-tax profit of \$10.5-million, up 19.3 percent.

Colt Firearms, a division of Colt Industries, had sales in 1974 of \$57-million, and pre-tax profits of \$6.9-million. During the first half of this year the division's sales were about the same as last year's, although pre-tax earnings have been down somewhat, a spokesman said.

The Browning Arms Company of Morgan, Utah, is in a somewhat different category because it imports the guns it sells—largely from Fabrique Nationale, a large Belgian gun manufacturer. Browning sold about \$40-million worth of firearms last year, and had earnings on those sales of about \$4-million, before taxes and interest expenses.

According to Mr. Browning, the company's president, sales this year have been somewhat slower than last year's, but the outlook for next year is better.

"We believe that business will pick up next year," he said, "If the dollar is strong, we'll have a pretty good year [in profits], and if it's weak, we won't."

Privately owned Charter Arms does not disclose financial results, but a company spokesman said the company sold between \$6-million and \$8-million worth of weapons last year. He declined to name a figure, but said "We are profitable."

Charter is doing "a little bit better" this year than last, the spokesman added, in both sales and earnings.

Regarding the Charter Arms handguns found in the possession of Sara Jane Moore, and employed in the George Wallace shooting, the spokesman said: "We're extremely regretful that products from our company found their way into the hands of people who would use them for such a horrible purpose. But as those guns left our plant they left our control."

Although the gun control controversy has not adversely affected the indus-

try's sales so far, there have been repercussions. Gun-sellers find it more difficult, for example, to display their wares in New York, which has one of the stiffest gun control laws in the nation.

Last month, at an annual exhibition held by the Sporting Goods Manufacturers Association at the New York Coliseum, not a single sporting arms manufacturer displayed weapons, although a number of the gun-makers have occupied booths in the past.

For that matter, some companies on the fringes of the gun industry are actively working against the proliferation of weapons.

Ira A. Lipman, chairman of Guardsmark, Inc., a Memphis-based company that provides guard services, said he pays his salesmen one-twelfth more in commission fees if they sell their customers on an unarmed guard service rather than a contract which specifies that the guards must carry weapons.

APPENDIX 2

During the Subcommittee on Crime's hearings on firearms legislation, more than 100 bills were introduced on this subject. The following are a representative sampling of those bills:

94TH CONGRESS
1ST SESSION

H. R. 9780

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 1975

Mr. CONYERS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and antique collectors.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Handgun Control Act
4 of 1975".

5 SEC. 2. The Congress hereby finds and declares—

6 (1) that annual sales of handguns in the United
7 States have risen sharply in the last decade, bringing the

1 total number of handguns in private hands to approxi-
2 mately forty million by the end of 1974;

3 (2) that handguns play a major role, and a role
4 disproportionate to their number in comparison with
5 long guns and other weapons, in the commission of hom-
6 icide, aggravated assault, and armed robbery, and that
7 the percentage of violent crimes in which handguns are
8 used is increasing;

9 (3) that most homicides are committed in alter-
10 cations between relatives, neighbors, or other acquaint-
11 ances, rather than in a confrontation between strangers;

12 (4) that handguns in the home are of less value
13 than is commonly thought in defending against intrud-
14 ers, and are more likely to increase the danger of a
15 firearm fatality to the inhabitants than to enhance their
16 personal safety;

17 (5) that the large proportion of handguns used in
18 crime in States and cities with strong gun control laws
19 tend to originate in loose control jurisdictions and that
20 private possession of handguns increases the likelihood
21 that they will be stolen or otherwise transferred in inter-
22 state commerce to criminals or persons intending to com-
23 mit criminal offenses;

3

(6) that more than one-half of all handguns are acquired secondhand and that licensing and restrictions on sale of new handguns will not significantly reduce handgun crime and handgun violence;

(7) that violent crimes perpetrated with handguns constitute a burden upon and interfere with interstate and foreign commerce and threaten the internal security and domestic tranquillity of the Nation;

(8) that fear of firearms crimes discourages citizens from traveling between the States to conduct business or to visit the Nation's Capital;

(9) that crimes committed with guns have disrupted our national political processes, and threaten the republican form of government within the States as guaranteed by article IV of the Constitution; and

(10) that a national firearms policy which restricts the availability of handguns for nonlaw enforcement and nonmilitary purposes will significantly reduce violent crime, reduce deaths from handguns, and reduce other handgun violence in the United States.

SEC. 3. (a) Title 18 of United States Code is amended by adding immediately after chapter 50 thereof the following new chapter:

1 **"Chapter 50A—HANDGUNS**

 "Sec.

 "1091. Unlawful acts.

 "1092. Licensing.

 "1093. Penalties.

 "1094. Exceptions.

 "1095. Voluntary transfer to law enforcement agency; tax credit.

 "1096. Rules and regulations.

 "1097. Effect on State law.

 "1098. Separability clause.

 "1099. Assistance to the Secretary.

 "1100. Appropriations.

 "1101. Definitions.

2 **"§ 1091. Unlawful acts**

3 “(a) Except as provided in section 1094 of this chap-
4 ter and in subsection (c) of this section, it shall be unlawful
5 for any person to import, manufacture, sell, buy, transfer, re-
6 ceive, or transport any handgun and handgun ammunition.

7 “(b) Except as provided in section 1094 of this chapter
8 and in subsection (c) of this section, it shall be unlawful,
9 after one year from the effective date of this chapter, for
10 any person to own or possess any handgun or handgun
11 ammunition.

12 “(c) The Secretary may, consistent with public safety
13 and necessity, exempt from the operation of subsection (a)
14 and subsection (b) of this section such importation, manu-
15 facture, sale, purchase, transfer, receipt, possession, owner-
16 ship, or transportation of handguns and handgun ammunition
17 by importers, manufacturers, or dealers, licensed under
18 chapter 44 of this title, and by pistol clubs licensed under

1 this chapter, as may in his judgment be required for the
2 operation of such pistol clubs or for purposes in section 1094
3 of this chapter.

4 Subsections (a) and (b) of this section shall not apply to
5 any transfer under section 1095 of this chapter.

6 “(d) It shall be unlawful for any licensed importer,
7 manufacturer, collector, or dealer to sell or otherwise transfer
8 any handgun or handgun ammunition to any person, except
9 another licensed importer, manufacturer collector, or dealer,
10 without presentation by the purchaser or recipient of written
11 verification that the receipt or purchase is being made by or
12 on behalf of a person or government agency eligible to obtain
13 and possess handguns under section 1094 of this chapter or
14 a pistol club licensed under this chapter.

15 “(e) Every manufacturer, collector, importer, and
16 dealer who sells or otherwise transfers handguns or handgun
17 ammunition shall maintain records and submit periodic re-
18 ports of sale or transfer of handguns and handgun ammuni-
19 tion in such form as the Secretary may by regulations
20 provide and shall permit the Secretary to enter the premises
21 at reasonable times for the purpose of inspecting such records.

22 **“§ 1092. Licensing**

23 “(a) A pistol club desiring to be licensed under this
24 chapter shall file an application for such license with the

6

1 Secretary. The application shall be in such form and contain
2 such information as the Secretary shall by regulation pre-
3 scribe. The fee for such license shall be \$25 per year.

4 “(b) Any importer, manufacturer, or dealer desiring
5 to be licensed under this chapter shall apply as provided in
6 chapter 44 of this title.

7 “(c) Any application submitted under subsection (a)
8 shall be approved if—

9 “(1) no member of the pistol club is a person whose
10 membership and participation in the club is in viola-
11 tion of any applicable State laws;

12 “(2) no member of the pistol club is prohibited
13 from transporting, shipping, or receiving firearms or
14 ammunition in interstate or foreign commerce under
15 section 922 (g) or (h) of this title;

16 “(3) no member of the pistol club has willfully
17 violated any of the provisions of this chapter or of
18 chapter 44 of this title or any regulations issued there-
19 under;

20 “(4) the pistol club has not willfully failed to
21 disclose any material information required, or has not
22 made any false statement as to any material fact in
23 connection with its application;

24 “(5) the club has been founded and operated for

1 bona fide target or sport shooting and other legitimate
2 recreational purposes; and

3 “(6) the pistol club has premises from which it
4 operates and—

5 “(A) maintains possession and control of the
6 handguns used by its members, and

7 “(B) (i) has procedures and facilities for keep-
8 ing such handguns in a secure place, under the con-
9 trol of the club’s chief officer, at all times when
10 they are not being used for target shooting or other
11 sporting or recreational purposes, or

12 “(ii) has effected arrangements for the storage
13 of the members’ handguns in a facility of the local
14 police department or other nearby law enforcement
15 agency.

16 “(d) (1) The Secretary must approve or deny an appli-
17 cation for a license with the sixty-day period beginning on
18 the date it is received. If the Secretary fails to act within
19 such period, the applicant may file an action under section
20 1361 of title 28 to compel the Secretary to act. If the Sec-
21 retary approves an applicant’s application, such applicant
22 shall be issued a license upon payment of the prescribed fee.

23 “(2) The Secretary may, after notice and opportunity
24 for hearing, revoke any license issued under this section if

1 the holder of such license has violated any provision of this
2 chapter or of chapter 44 of this title or any rule or regula-
3 tions prescribed by the Secretary under such chapters. The
4 Secretary's action under this paragraph may be reviewed
5 only as provided in subsection (c) of this section.

6 “(c) (1) Any person whose application for a license is
7 denied and any holder of a license which is revoked shall
8 receive a written notice from the Secretary stating specifically
9 the grounds upon which the application was denied or upon
10 which the license was revoked. Any notice of revocation of
11 a license shall be given to the holder of such license before
12 the effective date of the revocation.

13 “(2) If the Secretary denies an application for, or re-
14 vokes, a license, he shall, upon request by the aggrieved
15 party, promptly hold a hearing to review his denial or revo-
16 cation. In the case of a revocation of a license, the Secretary
17 shall upon the request of the holder of the license stay the
18 effective date of the revocation. A hearing held under this
19 paragraph shall be held at a location convenient to the
20 aggrieved party.

21 “(3) If after a hearing held under paragraph (2) the
22 Secretary decides not to reverse his decision to deny an
23 application or revoke a license, the Secretary shall give
24 notice of his decision to the aggrieved party. The aggrieved
25 party may at any time within sixty days after the date

1 notice was given under this paragraph file a petition with
2 the United States district court for the district in which he
3 resides or has his principal place of business for a judicial
4 review of such denial or revocation. In a proceeding con-
5 ducted under this subsection, the court may consider any
6 evidence submitted by the parties to the proceeding. If the
7 court decides that the Secretary was not authorized to deny
8 the application or to revoke the license, the court shall order
9 the Secretary to take such action as may be necessary to
10 comply with the judgment of the court.

11 “(f) Each licensed pistol club shall maintain such rec-
12 ords of receipt, sale, or other disposition, of handguns at
13 such place, for such period, and in such form as the Secretary
14 may by regulations prescribe. Such pistol clubs shall make
15 such records available for inspection at all reasonable times,
16 and shall submit to the Secretary such reports and informa-
17 tion with respect to such records and the contents thereof
18 as he shall by regulations prescribe. The Secretary may
19 enter at reasonable times the premises (including places
20 of storage) of any pistol club for the purpose of inspecting
21 or examining (1) any records of documents required to
22 be kept by such pistol club under the provisions of this
23 chapter or chapter 44 of this title and regulations issued
24 under such chapters, and (2) any handguns or ammunition
25 kept or stored by such pistol club at such premises.

1 “(g) Licenses issued under the provisions of subsection
2 (e) of this section shall be kept posted and kept available for
3 inspection on the premises covered by the license.

4 “(h) The loss or theft of any firearms shall be reported
5 by the person from whose possession it was lost or stolen,
6 within thirty days after such loss or theft is discovered, to
7 the Secretary. Such report shall include such information as
8 the Secretary by regulation shall prescribe, including, without
9 limitation, the date and place of theft or loss.

10 **“§ 1093. Penalties**

11 “(a) Whoever violates any provision of section 1091 of
12 this chapter shall be fined not more than \$5,000, or impris-
13 oned not more than five years, or both, and shall become
14 eligible for parole as the Board of Parole shall determine.

15 “(b) Whoever knowingly makes any false statement or
16 representation with respect to the information required by the
17 provisions of this chapter to be kept in the records of an
18 importer, manufacturer, dealer or pistol club, licensed under
19 this chapter, or in applying for a pistol club license under the
20 provisions of this chapter, shall be fined not more than
21 \$5,000, or imprisoned not more than five years, or both,
22 and shall become eligible for parole as the Board of Parole
23 shall determine.

24 “(c) Any handgun or handgun ammunition involved or
25 used in, or intended to be used in, any violation of the pro-

visions of this chapter or chapter 44 of this title or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

“(d) Except as provided in subsection (b), no information or evidence obtained from an application or certificate of registration required to be submitted or retained by a natural person in order to comply with any provision of the chapter or regulations issued by the Secretary shall be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application for registration containing the information or evidence.

“§ 1094. Exceptions

“(a) The provisions of this chapter shall not apply with respect to the importation, manufacture, sale, purchase, transfer, receipt, or transportation of any handgun or handgun ammunition which the Secretary determines is being imported or manufactured for, sold, or transferred to, purchased, received, owned, possessed, or transported by, or issued for the use of—

“(1) a professional security guard service which is

1 licensed by the State in which the handgun is to be
2 used, and which is authorized to provide armed security
3 guards for hire; or

4 “(2) the United States or any department or
5 agency thereof or any State or any department, agency,
6 or political subdivision thereof.

7 “(b) Every security guard service purchasing, receiv-
8 ing, owning, possessing, or transporting handguns under
9 subsection (a) shall maintain records of receipts, sale, own-
10 ership, and possession of handguns in such form as the Sec-
11 retary may provide and permit the Secretary to enter the
12 premises at reasonable times for the purpose of inspecting
13 such records.

14 “(c) The provisions of this chapter shall not apply with
15 respect to the importation, sale, purchase, transfer, receipt,
16 or transportation of a handgun manufactured before 1890,
17 or any other handgun which the Secretary determines is
18 unserviceable, not restorable to firing condition, and intended
19 for use as a curio, museum piece, or collectors’ item.

20 **“§ 1095. Voluntary transfer to law enforcement agency;
21 tax credit**

22 “(a) A person may transfer to any Federal, State, or
23 local law enforcement agency designated by the Secretary
24 any handgun, or quantity of handgun ammunition, owned
25 or possessed by such person. The Secretary shall arrange

1 with each agency designated to receive handguns and hand-
2 gun ammunition for the transfer, destruction, or other dis-
3 position of all handguns and handgun ammunition transferred
4 to such agency under this Act.

5 “(b) For allowance of a credit against Federal income
6 tax in an amount equal to the fair market value of handguns
7 or handgun ammunition transferred under subsection (a)
8 of this section before December 31, 1977, see section 44A
9 of the Internal Revenue Code of 1954.

10 **“§ 1096. Rules and regulations**

11 “(a) The Secretary may prescribe such rules and reg-
12 nulations as he deems necessary to carry out the provisions
13 of this chapter.

14 **“§ 1097. Effect on State law**

15 “No provision of this chapter shall be construed as
16 indicating an intent on the part of the Congress to occupy
17 the field in which such provision operates to the exclusion
18 of the law of any State on the same subject, unless there is
19 a direct and positive conflict between such provision and
20 the law of the State so that the two cannot be reconciled or
21 consistently stand together.

22 **“1098. Separability**

23 “If any provision of this chapter or the application
24 thereof to any person or circumstance is held invalid, the
25 remainder of the chapter and the application of such pro-

1 vision to other persons not similarly situated or to other
2 circumstances shall not be affected thereby.

3 **"§ 1099. Assistance to the Secretary**

4 "When requested by the Secretary, Federal departments
5 and agencies shall assist the Secretary in the administration
6 of this title.

7 **"§ 1100. Appropriations**

8 "There are authorized to be appropriated such sums as
9 are necessary to carry out the purposes of this chapter.

10 **"§ 1101. Definitions**

11 "As used in this chapter—

12 "(1) the term 'person' and the term 'whoever' in-
13 cludes any individual, corporation, company, association
14 firm, partnership, club, society, or joint-stock company;

15 "(2) the term 'importer' means any person engaged
16 in the business of importing or bringing handguns into
17 the United States for purposes of sale or distribution;
18 and the term 'licensed importer' means any such person
19 licensed under the provisions of chapter 44 of this title;

20 "(3) the term 'manufacturer' means any person en-
21 gaged in the manufacture or assembly of handguns for
22 the purposes of sale or distribution; and the term 'li-
23 censed manufacturer' means any such person licensed
24 under the provisions of chapter 44 of this title;

1 “(4) the term ‘collector’ means any person who
2 acquires, holds, or disposes of firearms or ammunition as
3 curios or relics, as the Secretary shall by regulation de-
4 fine, and the term ‘licensed collector’ means any such
5 person licensed under the provisions of chapter 44 of
6 this title;

7 “(5) the term ‘dealer’ means (A) any person en-
8 gaged in the business of selling handguns at wholesale
9 or retail, (B) any person engaged in the business of
10 repairing handguns or of making or fitting special bar-
11 rels, or trigger mechanisms to handguns, or (C) any
12 person who is a pawnbroker. The term ‘licensed dealer’
13 means any dealer who is licensed under the provisions of
14 chapter 44 of this title;

15 “(6) the term ‘fair market value’ means the pre-
16 vailing price on the open market for such weapons im-
17 mediately prior to enactment or at the time of voluntary
18 transfer under section 1094 of this chapter, whichever is
19 higher, the method of establishing such prices to be
20 prescribed by the Secretary in accordance with his
21 authority under section 1095;

22 “(7) the term ‘Secretary’ or ‘Secretary of the Treas-
23 ury’ means the Secretary of the Treasury or his delegate;

24 “(8) the term ‘handgun’ means any weapon—

1 “(A) designed or redesigned, or made, or
2 remade, and intended to be fired while held in one
3 hand;

4 “(B) having a barrel less than ten inches in
5 length; and

6 “(C) designed or redesigned, or made or re-
7 made, to use the energy of an explosive to expel a
8 projectile or projectiles through a smooth or rifled
9 bore; and

10 “(9) the term ‘handgun ammunition’ means am-
11 munition or cartridge cases, or bullets designed for use
12 exclusively in handguns;

13 “(10) the term ‘pistol club’ means a club organized
14 for target shooting with handguns or to use handguns
15 for sporting or other recreational purposes;

16 “(11) the term ‘licensed pistol club’ means a pistol
17 club which is licensed under this chapter.”.

18 (b) The table of chapters for title 18 of the United
19 States Code and for part I of such title are each amended
20 by inserting immediately after the item relating to chapter 50
21 the following new item:

“50A. Handguns----- 1091”

22 SEC. 4. The enforcement and administration of the
23 amendments made by this Act shall be vested in the Sec-
24 retary of the Treasury.

1 SEC. 5. (a) Subpart A of part IV of subchapter A of
2 chapter 1 of the Internal Revenue Code of 1954 (relating
3 to credits against tax) is amended by inserting immediately
4 after section 44 the following new section:

5 **"SEC. 44A. VOLUNTARY TRANSFER OF HANDGUNS TO**
6 **LAW ENFORCEMENT AGENCIES.**

7 "(a) ALLOWANCE OF CREDIT.—There shall be allowed
8 as a credit against the tax imposed by this chapter for the
9 taxable year an amount equal to the fair market value of
10 any handgun, or quantity of handgun ammunition, owned
11 by the taxpayer both title and possession of which are trans-
12 ferred, without consideration, during the taxable year to any
13 Federal, State, or local law enforcement agency designated
14 under section 1094 of title 18, United States Code.

15 "(b) DEFINITIONS AND SPECIAL RULES.—For pur-
16 poses of this section—

17 "(1) FAIR MARKET VALUE.—The term 'fair
18 market value' has the meaning given such term under
19 section 1100 (6) of title 18, United States Code.

20 "(2) OTHER TERMS.—The terms 'handgun' and
21 'handgun ammunition' have the same meanings given
22 those terms in section 1100 of such title—

23 "(A) with respect to which chapter 50A of such
24 title applies (determined after applying section
25 1093 (c) of such title) ; and

1 “(B) with respect to which a credit has pre-
2 viously been allowed under this section.

3 “(3) COORDINATION WITH SECTION 170.—A
4 deduction shall not be allowed under section 170 (re-
5 lating to charitable, etc., contributions and gifts) with
6 respect to any handgun or any quantity of handgun
7 ammunition for which a credit is allowable under this
8 section.

9 “(e) TERMINATION.—A credit shall not be allowed
10 under this section for any handgun or any quantity of hand-
11 gun ammunition transferred after December 31, 1977.”.

12 (b) (1) Section 6401 (b) of such Code (relating to ex-
13 cessive credits) is amended—

14 (A) by inserting “, 44A (relating to voluntary
15 transfer of handguns and handgun ammunition to law
16 enforcement agencies),” before “and 667 (b)”;

17 (B) by striking out “and 43” and inserting in lieu
18 thereof “43, and 44A”.

19 (2) The table of sections for such subpart A is amended
20 by inserting after the item relating to section 44 the
21 following:

 “Sec. 44A. Voluntary transfer of handguns and handgun
 ammunition to law enforcement agencies.”.

22 (c) The amendments made by this section shall apply
23 with respect to taxable years ending after the date of the
24 enactment of this Act.

1 SEC. 6. Nothing in this Act or the amendments made
2 thereby shall be construed as modifying or affecting any
3 provision of—

4 (1) the National Firearms Act (chapter 53 of the
5 Internal Revenue Code of 1954) ;

6 (2) section 414 of the Mutual Security Act of 1954
7 (22 U.S.C. 1934), as amended, relating to munitions
8 control; or

9 (3) section 1715 of title 18, United States Code,
10 relating to nonmailable firearms.

11 SEC. 7. The provisions of this Act shall take effect thirty
12 days following the date of enactment.

94TH CONGRESS
1ST SESSION

H. R. 9022

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1975

Mr. McCLORY introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To ban the importation, manufacture, sale, and transfer of Saturday Night Specials, to improve the effectiveness of the Gun Control Act of 1968, to ban possession, shipment, transportation, and receipt of all firearms by felons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Congress hereby finds and declares—

4 (a) that the traffic in cheap, low-quality, and easily
5 concealable handguns, which are commonly known as
6 Saturday Night Specials and which have no legitimate
7 sporting or valid defensive purpose, constitutes a serious
8 threat to general law enforcement, to the public safety,

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1 and to the integrity of State and local firearms control
2 laws;

3 (b) that the criminal misuse of these handguns
4 is a significant factor in the prevalence of lawlessness
5 and violent crime in the United States, thus contribut-
6 ing greatly to the Nation's law enforcement problems;

7 (c) that the existing ban on importation of Sat-
8 urday Night Specials has been effectively subverted by
9 the importation of parts and the domestic assembly and
10 manufacture of the weapons the Congress banned from
11 importation; and

12 (d) that the absence of effective controls on do-
13 mestic manufacture and sale of small, easily concealable,
14 and cheap handguns known as Saturday Night Specials
15 constitutes a major shortcoming in existing law, circum-
16 vents the purpose of the import restrictions of existing
17 law, and makes possible commercial traffic among the
18 States and within the States in cheap and deadly weap-
19 ons which serve no sporting or valid defensive purpose
20 and which threaten the physical safety and well-being
21 of all Americans.

22 SEC. 2. The Congress further finds and declares:

23 (a) that the receipt or possession of firearms and
24 ammunition by persons barred by Federal law from such
25 receipt or possession constitutes—

1 (1) a burden on commerce within and among
2 the States; and

3 (2) a threat to the domestic tranquility;

4 (b) that a person obtaining a Federal license to
5 import, manufacture, or deal in firearms should be a
6 bona fide importer, manufacturer, or dealer operating
7 not only within the Federal laws but also within State
8 and applicable local laws; and

9 (c) that the burden on commerce caused by illegal
10 possession of handguns by felons and by persons barred
11 from possession of handguns by Federal, State, or local
12 law requires an increased obligation on the transferor of
13 handguns and on law enforcement agencies to assure that
14 there is no sale or transfer of a handgun to a person not
15 authorized to possess it.

16 SEC. 3. Section 842 of title 18, United States Code, is
17 amended—

18 (a) by deleting “(as defined in section 4761 of
19 the Internal Revenue Code of 1954)” in subsection
20 (d) (5);

21 (b) by deleting “drug (as defined in section 201
22 (v) of the Federal Food, Drug, and Cosmetic Act)” in
23 subsection (d) (5) and inserting in lieu thereof “sub-
24 stance”;

25 (c) by deleting “(as defined in section 4721 (a) of

4

1 the Internal Revenue Code of 1954) ; or" in subsection
2 (d) (5) and inserting in lieu thereof "as those terms
3 are defined in section 102 of the Controlled Substances
4 Act (21 U.S.C. 802)";

5 (d) by deleting subsection (d) (6) and inserting
6 in lieu thereof the following:

7 " (6) has been adjudicated as mentally incompetent
8 or has been committed to a mental institution; or

9 " (7) being an alien, is illegally or unlawfully in the
10 United States.";

11 (e) by deleting " (as defined in section 4761 of the
12 Internal Revenue Code of 1954) " in subsection (i) (3) ;

13 (f) by deleting "drug (as defined in section 201 (v)
14 of the Federal Food, Drug, and Cosmetic Act) " in sub-
15 section (i) (3) and inserting in lieu thereof "substance";

16 (g) by deleting " (as defined in section 4731 (a) of
17 the Internal Revenue Code of 1954) ; or" in subsection
18 (i) (3) and inserting in lieu thereof "as those terms are
19 defined in section 102 of the Controlled Substances Act
20 (21 U.S.C. 802) " ; and

21 (h) by deleting subsection (i) (4) and inserting in
22 lieu thereof the following:

23 " (4) who has been adjudicated as mentally in-
24 competent or has been committed to a mental institution;
25 or

1 “(5) who, being an alien, is illegally or unlawfully
2 in the United States;”.

3 SEC. 4. Section 843 of title 18, United States Code, is
4 amended—

5 (a) by deleting “forty-five” in subsection (c) and
6 inserting in lieu thereof “ninety”; and

7 (b) by amending subsections (d) and (e) to read
8 as follows:

9 “(d) (1) The Secretary may revoke a license or permit
10 issued under this chapter if the person holding the license
11 or permit is ineligible to acquire explosive materials under
12 section 842 (d).

13 “(2) A person who has a license or permit issued under
14 this section and who violates a provision of this section or
15 a rule or regulation prescribed by the Secretary under this
16 chapter, shall be subject to a civil penalty, to be imposed
17 by the Secretary, of up to \$10,000 for each violation, or to
18 suspension or revocation of his license or permit, or to both
19 the civil penalty and revocation or suspension. The Secretary
20 may at any time compromise, mitigate, or remit such pen-
21 alties. An action of the Secretary under this subsection is
22 subject to review only as provided in subsection (e) of this
23 section.

24 “(e) (1) Any person whose application is denied or
25 whose license or permit is suspended or revoked or who is

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1 assessed a civil penalty shall receive a written notice from the
2 Secretary stating the specific grounds upon which such denial,
3 suspension, revocation, or civil penalty is based. Any notice
4 of a suspension or revocation of a license or permit shall be
5 given to the holder of such license or permit prior to or con-
6 current with the effective date of the suspension or revo-
7 cation.

8 “(2) If the Secretary denies any application for, or
9 suspends or revokes, a license, or permit, or assesses a civil
10 penalty, he shall, upon request by the aggrieved party,
11 promptly hold a hearing to review his denial, suspension,
12 revocation, or assessment. In the case of a suspension or revo-
13 cation, the Secretary may upon a request of the holder stay
14 the effective date of the suspension or revocation. A hearing
15 under this section shall be at a location convenient to the
16 aggrieved party. The Secretary shall give written notice of
17 his decision to the aggrieved party within a reasonable time
18 after the hearing. The aggrieved party may, within sixty
19 days after receipt of the Secretary's written decision, file a
20 petition with the United States court of appeals for the dis-
21 trict in which he resides or has his principal place of business
22 for a judicial review of such denial, suspension, revocation,
23 or assessment pursuant to sections 701 through 706 of title
24 5, United States Code.”.

1 SEC. 5. Section 921 (a) of title 18, United States Code,
2 is amended—

3 (a) by amending paragraph (11) to read as fol-
4 lows:

5 “(11) The term ‘dealer’ means any person who is (A)
6 engaged in business as an ammunition retailer, (B) engaged
7 in business as a gunsmith, (C) engaged in business a fire-
8 arms dealer, or (D) a pawnbroker. The term ‘licensed dealer’
9 means any dealer who is licensed under the provisions of
10 this chapter.”;

11 (b) by redesignating paragraphs (12), (13),
12 (14), (15), (16), (17), (18), (19), and (20) as
13 paragraphs (19), (20), (21), (22), (23), (24),
14 (25), (26), and (27), respectively; and

15 (c) by adding after paragraph (11) the following
16 new paragraphs:

17 “(12) The term ‘ammunition retailer’ means any per-
18 son who is not otherwise a dealer who is engaged in the
19 business of selling ammunition at retail, other than ammuni-
20 tion for destructive devices.

21 “(13) The term ‘gunsmith’ means any person who is
22 not otherwise a dealer who is engaged in the business of
23 repairing firearms or making or fitting special barrels, stocks,
24 or trigger mechanisms to firearms.

1 “(14) The term ‘firearms dealer’ means any person who
2 is engaged in the business of selling firearms or ammunition
3 at wholesale or retail.

4 “(15) The term ‘handgun’ means a firearm which has
5 a short stock and which is designed to be held and fired by
6 the use of a single hand. The term also includes any com-
7 bination of parts from which a handgun can be assembled.

8 “(16) The term ‘handgun model’ means a particular
9 design and specification of a handgun.

10 “(17) The term ‘pistol’ means a handgun having a
11 chamber or chambers as an integral part or parts of, or per-
12 manently aligned with, the bore or bores.

13 “(18) The term ‘revolver’ means a handgun having a
14 breechloading chambered cylinder so arranged that the cock-
15 ing of the hammer or movement of the trigger rotates the
16 cylinder to bring the next cartridge in line with the barrel
17 for firing.”.

18 SEC. 6. Section 922 of title 18, United States Code, is
19 amended:

20 (a) by adding after the words “replacement fire-
21 arm” in subsection (a) (2) (A) the words “, other
22 than a handgun of a model which has not been approved
23 by the Secretary under section 923 (k),”;

24 (b) by adding after the words “mailing a firearm”
in subsection (a) (2) (A) the words “, other than a

1 handgun of a model which has not been approved by the
2 Secretary under section 923 (k),”;

3 (c) by deleting “resides in any State other than
4 that in which the transferor resides (or other than that”
5 in subsection (a) (5) and inserting in lieu thereof “does
6 not reside in the State in which the transferor resides
7 (or does not reside in the State”;

8 (d) by adding after the words “rental of a firearm”
9 in subsection (a) (5) the words “, except a handgun
10 of a model which has not been approved by the Secre-
11 tary under section 923 (k) of this chapter,”;

12 (e) by adding after the words “loan or rental of
13 a firearm” in subsection (b) (3) (B) the words “, other
14 than a handgun of a model which has not been approved
15 by the Secretary under section 923 (k),”;

16 (f) by adding after the words “may sell a firearm”
17 in subsection (c) the words “, other than a handgun,”;

18 (g) by deleting “, in the case of any firearm other
19 than a shotgun or a rifle, I am twenty-one years or more
20 of age, or that, in the case of shotgun or a rifle,” in sub-
21 section (c) (1) ;

22 (h) by repealing subsections (d) and (h) ;

23 (i) by redesignating subsections (e) and (f) as
24 subsections (m) and (n), respectively, by redes-

1 ignating subsections (i), (j), (k), (l), and (m) as
2 subsection (o), (p), (q), (r), and (s), respectively,
3 and by redesignating subsection (g) as subsection (h) ;
4 (j) by adding after subsection (c) the following
5 new subsections:

6 “(d) (1) It shall be unlawful for any licensed manu-
7 facturer, licensed importer, licensed dealer, or licensed col-
8 lector to manufacture, assemble, sell, or transfer any hand-
9 gun, other than a curio or relic, in the United States unless
10 the handgun model has been approved by the Secretary
11 pursuant to section 923 (k) of this chapter.

12 “(2) It shall be unlawful for any person other than a
13 licensed manufacturer, licensed importer, licensed dealer, or
14 licensed collector to sell or transfer any handgun, other than
15 a curio or relic, in the United States knowing that the hand-
16 gun is a model which has not been approved by the Secretary
17 pursuant to section 923 (k) of this chapter.

18 “(c) It shall be unlawful for any person to modify a
19 handgun if the handgun model was previously approved by
20 the Secretary for manufacture, assembly, importation, sale,
21 or transfer if as a result of the modification the handgun no
22 longer meets the standards of a handgun model approved
23 under section 923 (k) of this chapter.

24 “(f) It shall be unlawful for any person who purchases
25 or receives a handgun with the purpose of selling or trans-

1 ferring the handgun to another person to sell or transfer the
2 handgun to another person unless he knows or has reason-
3 able cause to believe that purchase and possession of the
4 handgun would be in accordance with Federal law and with
5 State law and any published ordinance applicable at the
6 place of sale, delivery, or other disposition. This subsection
7 shall not apply to transactions between licensed importers,
8 licensed manufacturers, licensed dealers, and licensed
9 collectors.

10 “(g) In any case not otherwise prohibited by this
11 chapter, a licensed importer, licensed manufacturer, or
12 licensed dealer may sell a handgun to a person only if the
13 person appears in person at the licensee’s business premises
14 (other than a licensed importer, manufacturer, or dealer)
15 and, in order to assure that purchase and possession of the
16 handgun by the transferee would be in accordance with
17 Federal law and with State law and any published ordi-
18 nance applicable at the place of sale, delivery, or other
19 disposition, only if:

20 “(1) the transferee submits to the transferor a
21 sworn statement prescribed in regulations to be promul-
22 gated by the Secretary setting forth:

23 “(A) his name, his residence, and the place
24 where the handgun will be kept; and

25 “(B) that his receipt of the handgun will not

1 be in violation of Federal law, or of a State law
2 or any published ordinance of the place of his resi-
3 dence or, if the handgun will be kept at a place
4 other than his place of residence, of the place where
5 the handgun will be kept, and that he does not
6 intend to resell or transfer the handgun to a per-
7 son who is barred from owning or possessing it
8 by Federal or State law or any published ordinance
9 of the place of the latter person's residence or other
10 place where the handgun would be kept.

11 The sworn statement shall also include the true title,
12 name, and address of the chief law enforcement officer
13 of the place of the transferee's residence and the place
14 where the handgun will be kept. If a State law or
15 published ordinance applicable at the place of the trans-
16 feree's residence or the place where the handgun will
17 be kept requires that a person must have a permit or
18 license to own, possess, or purchase the handgun, a true
19 copy of such permit or license shall be attached to the
20 sworn statement. Any other information required to be
21 supplied to own, possess, or acquire a handgun under
22 such State law or published ordinance shall also be
23 attached to the sworn statement;

24 "(2) the transferee provides identification sufficient
25 to establish, under rules and regulations of the Seere-

1 tary, reasonable grounds to believe that the transferee
2 is the person he claims to be, and that his residence is
3 at the address stated in the transferee's sworn statement;

4 “(3) the transferor has, prior to delivery of the
5 handgun, forwarded immediately by registered or certi-
6 fied mail (return receipt requested), to the chief law
7 enforcement officer of the transferee's place of residence
8 and to the chief law enforcement officer of any other
9 place where the transferee indicates in his sworn state-
10 ment that he will keep the handgun, a copy of the sworn
11 statement, in a form prescribed by the Secretary, for
12 purposes of notifying such officer of the proposed trans-
13 fer and of permitting such officer:

14 “(A) to check the record and identity of the
15 transferee, to determine whether ownership or pos-
16 session of the handgun by the transferee would be
17 a violation of a State law or any published ordinance
18 of the place of the transferee's residence or the place
19 where the handgun will be kept;

20 “(B) to request a name check by the Federal
21 Bureau of Investigation which shall be sent to the
22 chief law enforcement officer within five working
23 days of the Bureau's receipt of the request; and

24 “(C) to report to the transferor the results of
25 such check, determination, and request;

1 “(4) the transferor has received a return receipt
2 evidencing delivery of the statement or has had the
3 statement returned due to the refusal of the named ad-
4 dressee to accept such letter in accordance with United
5 States Postal Service regulations;

6 “(5) the transferor has received reports from the
7 chief law enforcement officer of the transferee's place
8 of residence and of the other place where the transferee
9 has indicated that the handgun will be kept, and the
10 reports do not indicate that the transferee is prohibited
11 from shipping, possessing, transporting, or receiving a
12 handgun under subsection (h) or (i) of this section,
13 that the transferee is less than twenty-one years of age,
14 or that the purchase or possession of a handgun by the
15 transferee would be a violation of a State law or any
16 published ordinance applicable at the place of residence
17 or place where the handgun will be kept; and

18 “(6) if the transferor has not received the reports
19 from the law enforcement officers, the transferor has de-
20 layed delivery of the handgun for a period of at least
21 fourteen days from the date the sworn statement required
22 under paragraph (1) of this subsection was forwarded
23 as prescribed in paragraph (3) of this subsection.

24 A copy of the sworn statement and a copy of the notification
25 or notifications to the chief law enforcement officer or offi-

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1 cers, together with the reports received from such officer or
2 officers under paragraph (3) of this subsection shall be re-
3 tained by the licensee as a part of the records required to be
4 kept under section 923 (g).”;

5 (k) by deleting “drug (as defined in section 201 (v)
6 of the Federal Food, Drug, and Cosmetic Act)” in sub-
7 section (h) (3) and inserting in lieu thereof “sub-
8 stance”;

9 (l) by deleting “(as defined in section 4731 (a) of
10 the Internal Revenue Code of 1954) ; or” in subsection
11 (h) (3) and inserting in lieu thereof “as those terms are
12 defined in section 102 of the Controlled Substances Act
13 (21 U.S.C. 802) ;”;

14 (m) by amending subsection (h) (4) to read as
15 follows:

16 “(4) who has been adjudicated as mentally incom-
17 petent or has been committed to a mental institution;
18 or”;

19 (n) by deleting “to ship or transport any firearm
20 or ammunition in interstate or foreign commerce” in
21 subsection (h) and inserting in lieu thereof:

22 “(5) who, being an alien, is illegally or unlawfully
23 in the United States;

24 to possess, ship, transport, or receive any firearm or ammuni-
25 tion.”;

1 (o) by adding after subsection (h) the following
2 new subsections:

3 “(i) It shall be unlawful for any person who, while
4 being employed by a person who is prohibited from possess-
5 ing, shipping, transporting, or receiving firearms or ammu-
6 nition under subsection (h), and who, knowing or having
7 reason to believe his employer falls within one of the classifi-
8 cations enumerated in subsection (h), in the course of such
9 employment to possess any firearm or ammunition.

10 “(j) It shall be unlawful for any person to sell or other-
11 wise dispose of any firearm or ammunition to any person
12 unless he knows or has reasonable cause to believe that such
13 person is not prohibited from possessing, shipping, transport-
14 ing, or receiving a firearm or ammunition under subsection
15 (h) or (i) of this section. This subsection shall not apply
16 with respect to the sale or disposition of a firearm or ammu-
17 nition to a licensed importer, licensed manufacturer, licensed
18 dealer, or licensed collector who pursuant to subsection (b)
19 of section 925 of this chapter is not precluded from dealing
20 in firearms or ammunition.

21 “(k) It shall be unlawful for any person to ship or trans-
22 port any firearm or ammunition in interstate or foreign com-
23 merce if such shipment or transportation is in violation of a
24 State law in a place to which or through which the firearm

1 was shipped or transported or of a published ordinance appli-
2 cable at the place of sale, delivery, or other disposition.

3 “(1) (1) It shall be unlawful for any licensed importer,
4 licensed manufacturer, licensed dealer, or licensed collector to
5 sell or transfer two or more handguns to the same person,
6 other than another licensed importer, licensed manufacturer,
7 licensed dealer, or licensed collector, in a period of thirty days
8 or less, unless the transferee has obtained prior approval of
9 the purchase from the Secretary, pursuant to regulations pro-
10 mulgated by the Secretary.

11 “(2) It shall be unlawful for any person, other than
12 a licensed importer, licensed manufacturer, licensed dealer,
13 or licensed collector to purchase or receive two or more
14 handguns in a period of thirty days or less from one or more
15 licensed importers, licensed manufacturers, licensed dealers,
16 or licensed collectors or from such a licensee and from a
17 person or persons who are not such licensees, unless the
18 person has obtained prior approval of the purchase from
19 the Secretary pursuant to regulations promulgated by the
20 Secretary. It shall be unlawful for any person, other than
21 a licensed importer, licensed manufacturer, licensed dealer,
22 or licensed collector to purchase or receive two or more
23 handguns in a period of thirty days or less from a person or
24 persons other than a licensed importer, licensed manufac-

1 turer, licensed dealer, or licensed collector unless the person
2 notifies the Secretary of such purchase or receipt within
3 thirty days after the purchase or receipt.”.

4 SEC. 7. Section 923 of title 18, United States Code,
5 is amended—

6 (a) by deleting subsections (a) (1) (B) and (C)
7 and inserting in lieu thereof the following:

8 “(B) of firearms other than destructive devices or
9 handguns, a fee of \$250 per year;

10 “(C) of firearms, including handguns, but not in-
11 cluding destructive devices, a fee of \$500 per year; or

12 “(D) of ammunition for firearms other than am-
13 munition for destructive devices, a fee of \$250 per
14 year.”;

15 (b) by deleting the word “or” at the end of sub-
16 section (a) (2) (A) ;

17 (c) by deleting subsection (a) (2) (B) and in-
18 serting in lieu thereof the following:

19 “(B) of firearms other than destructive devices
20 or handguns or of ammunition for firearms other than
21 destructive devices, a fee of \$250 per year; or

22 “(C) of firearms, including handguns, but not in-
23 cluding destructive devices, a fee of \$500 per year.”;

24 (d) by deleting subsections (a) (3) (B) and (C)
25 and inserting in lieu thereof the following:

1 “(B) who is a pawnbroker dealing in firearms
2 other than destructive devices or handguns, or ammuni-
3 tion for firearms other than destructive devices, a fee
4 of \$250 per year;

5 “(C) who is a pawnbroker dealing in firearms, in-
6 cluding handguns, but not including destructive devices,
7 a fee of \$500;

8 “(D) who is not a dealer in destructive devices or
9 handguns, a pawnbroker, a gunsmith, or an ammuni-
10 tion retailer in other than ammunition for destructive
11 devices, a fee of \$100 per year;

12 “(E) in firearms, including handguns, but not in-
13 cluding destructive devices, \$200 per year;

14 “(F) who is a gunsmith, a fee of \$50 per year; or

15 “(G) who is an ammunition retailer in other than
16 ammunition for destructive devices, a fee of \$25 a year.”;

17 (e) by deleting the language in subsection (d) (1)
18 which precedes subparagraph (A) and inserting in lieu
19 thereof the following: “Any application submitted under
20 subsection (a) or (b) of this section shall be approved
21 if the Secretary finds that—”;

22 (f) by amending subsection (d) (1) (B) to read as
23 follows:

24 “(B) the applicant (including, in the case of a cor-
25 poration, partnership, or association, any individual pos-

1 sessing, directly or indirectly, the power to direct or
2 cause the direction of the management and policies of
3 the corporation, partnership, or association) :

4 “(i) is not prohibited from possessing, trans-
5 porting, shipping, or receiving firearms or ammu-
6 nition under section 922 (h) or (i) of this chapter;

7 “(ii) is not prohibited by the law of the State
8 or by relevant ordinance of his place of business
9 from conducting the business of transporting, ship-
10 ping, receiving, selling, transferring, owning, or
11 possessing the firearms or ammunition to which the
12 license would apply; and

13 “(iii) is, by reason of his business experience,
14 financial standing, or trade connections, likely to
15 commence the business for which the license is ap-
16 plied within a reasonable period of time and to main-
17 tain such business in conformity with Federal law
18 and with State and relevant local law applicable at
19 his place of business;”;

20 (g) by deleting “forty-five” in subsection (d) (2)
21 and inserting in lieu thereof “ninety”;

22 (h) by amending subsections (e) and (f) to read
23 as follows:

24 “(e) The Secretary may, after notice and opportunity
25 for hearing, suspend or revoke any license issued under

1 this section, or may subject the licensee to a civil penalty of
2 up to \$10,000 per violation, if the holder of such license
3 has violated any provision of this chapter or any rule or
4 regulation prescribed by the Secretary under this chapter,
5 The Secretary may at any time compromise, mitigate, or
6 remit the liability with respect to such violation. The Sec-
7 retary's action under this subsection may be reviewed only
8 as provided in subsection (f) of this section.

9 “(f) (1) Any person whose application for a license is
10 denied and any holder of a license which is suspended or
11 revoked or who is assessed a civil penalty shall receive a
12 written notice from the Secretary stating specifically the
13 grounds upon which the application was denied or upon
14 which the license was suspended or revoked or the civil
15 penalty assessed. Any notice of a suspension or revocation
16 of a license shall be given to the holder of such license before
17 the effective date of the suspension or revocation.

18 “(2) If the Secretary denies an application for, or
19 suspends or revokes a license, or assesses a civil penalty, he
20 shall, upon request by the aggrieved party, promptly hold
21 a hearing to review his denial, suspension, revocation, or
22 assessment. In the case of a suspension or revocation of a
23 license, the Secretary shall upon the request of the holder
24 of the license stay the effective date of the suspension or

1 revocation. A hearing held under this paragraph shall be
2 held at a location convenient to the aggrieved party.

3 “(3) If after a hearing held under paragraph (2)
4 the Secretary decides not to reverse his decision to deny an
5 application or suspend or revoke a license or assess a civil
6 penalty, the Secretary shall give notice of his decision to
7 the aggrieved party. The aggrieved party may at any time
8 within sixty days after the date notice was given under this
9 paragraph file a petition with the United States district court
10 for the district in which he resides or has his principal place
11 of business for a judicial review of such denial, suspension,
12 revocation, or assessment. In a proceeding conducted under
13 this subsection, the court may consider any evidence sub-
14 mitted by the parties to the proceeding. If the court decides
15 that the Secretary was not authorized to deny the application
16 or to suspend or revoke the license or to assess the civil
17 penalty, the court shall order the Secretary to take such
18 action as may be necessary to comply with the judgment of
19 the court.”;

20 (i) by adding the following new subsections after
21 subsection (j) :

22 “(k) The Secretary shall approve for manufacture,
23 assembly, importation, sale, or transfer any handgun model
24 if he has caused to be evaluated and tested representative
25 samples of the handgun model and has found that such hand-

1 gun model is particularly suitable for sporting or valid
2 defensive purposes and that—

3 “(1) in the case of a pistol, the handgun model—

4 “(A) has a positive manually operated safety
5 device; and

6 “(B) has a combined length and height of not
7 less than ten inches with the height (measured
8 from the top of the weapon, excluding sights, at a
9 right-angle measurement to the line of the bore,
10 to the bottom of the frame, excluding magazine
11 extensions or releases) being at least four inches and
12 the length (measured from the muzzle, parallel to
13 the line of the bore, to the back of the part of the
14 weapon that is furthest to the rear of the weapon)
15 being at least six inches; and

16 “(C) attains a total of at least eighty-five
17 points under the following criteria:

18 “(i) Overall length: one point for each
19 one-fourth inch over six inches;

20 “(ii) Frame Construction: (a) twenty-five
21 points if investment cast steel or forged steel,
22 (b) thirty points if investment cast, high ten-
23 sile strength alloy or forged high tensile
24 strength alloy;

25 “(iii) Weight: one point for each ounce,

24

1 with the pistol unloaded and the magazine in
2 place;

3 “(iv) Caliber: (a) zero points if the pistol
4 accepts only .22 caliber short or .25 ACP cali-
5 ber ammunition, (b) three points if the pistol
6 accepts either .22 caliber long rifle ammunition
7 or any ammunition within the range delimited
8 by 7.65 millimeter and .380 caliber automatic,
9 (c) ten points if the pistol accepts nine milli-
10 meter parabellum ammunition or ammunition
11 of an equivalent or greater projectile size or
12 power;

13 “(v) Safety features: (a) five points if the
14 pistol has a locked breech mechanism, (b) five
15 points if the pistol has a loaded chamber indi-
16 cator, (c) five points if the pistol has a cocked
17 position indicator, (d) five points if the pistol
18 has a grip safety, (e) five points if the pistol
19 has a magazine safety, (f) ten points if the
20 pistol has a firing pin block or lock;

21 “(vi) Other features: (a) one point if the
22 pistol has a contoured magazine extension, (b)
23 three points if the pistol has a slide hold-open
24 device; and

25 “(vii) Miscellaneous equipment: (a) three

1 points if the pistol has an external hammer,
2 (b) ten points if the pistol has a double action
3 firing mechanism, (c) five points if the pistol
4 has a drift adjustable sight, (e) ten points if
5 the pistol has a screw adjustable windage and
6 elevation sight, (f) five points if the pistol has
7 target grips, (g) three points if the pistol has a
8 target trigger;

9 “(2) in the case of a revolver, the handgun model;

10 “(A) has an overall frame (with conventional
11 grips) length of four and one-half inches (measured
12 from the end of the frame nearest the muzzle,
13 parallel to the line of the bore to the back of the
14 part of the weapon that is furthest to the rear of
15 the weapon) ;

16 “(B) has a barrel length (measured from the
17 muzzle to the cylinder face) of at least four inches;
18 and

19 “(C) has a safety device which, either (i) by
20 automatic operation in the case of a double action
21 firing mechanism or (ii) by manual operation in
22 the case of a single action firing mechanism, causes
23 the hammer to retract to a point where the firing
24 pin does not rest upon the primer of the cartridge,
25 and which, once activated, except for a used hand-

1 gun, is capable of withstanding the impact of a
2 weight, equal to the weight of the revolver, dropped
3 a total of five times from a height of thirty-six
4 inches above the rear of the hammer spur onto the
5 rear of the hammer spur with the revolver in a posi-
6 tion such that the line of the barrel is perpendicular
7 to the plane of the horizon; and

8 “(D) attains a total of at least sixty points un-
9 der the following criteria:

10 “(i) Barrel length (measured from the
11 muzzle to the cylinder face) : one-half point for
12 each one-half inch that the barrel is longer than
13 four inches;

14 “(ii) Frame construction: (a) twenty-five
15 points if investment cast steel or forged steel,
16 (b) thirty points if investment cast, high ten-
17 sile strength alloy or forged high tensile strength
18 alloy;

19 “(iii) Weight: one point for each ounce
20 with the revolver unloaded;

21 “(iv) Caliber: (a) zero points if the re-
22 volver accepts ammunition within the range
23 delimited by 4 millimeter and .25 caliber ACP
24 other than .22 caliber long rifle ammunition,
25 (b) three points if the revolver accepts .22

27

1 caliber long rifle ammunition or ammunition
2 within the range delimited by .30 caliber and
3 .38 caliber S&W, (c) four points if the revolver
4 accepts .38 caliber special ammunition, (d)
5 five points if the revolver accepts .357 magnum
6 ammunition or ammunition of an equivalent or
7 greater projectile size or power;

8 “(v) Safety features: three points if the
9 revolver has a grip safety;

10 “(vi) Other features: (a) two points if
11 the revolver has a front supported or shrouded
12 ejector rod, (b) five points if the revolver has
13 a rifled portion of the barrel threaded to or
14 integral to the frame or strap component, (c)
15 two points if the revolver has a retracting firing
16 pin, (d) two points if the revolver has a steel
17 recoil plate, (e) five points if the double action
18 revolver has a crane mounted cylinder or rear
19 latch top break, (f) five points if the single
20 action revolver has a spring-loader ejector
21 assembly and a loading gate; and

22 “(vii) Miscellaneous equipment: (a) two
23 points if the revolver has a drift adjustable sight,
24 (b) five points if the revolver has a screw ad-
25 justable windage or elevation sight, (c) seven

1 points if the revolver has a screw adjustable
2 windage and elevation sight, (d) four points if
3 the revolver has target grips, (e) two points if
4 the revolver has a target trigger, (f) two points
5 if the revolver has a target hammer.

6 “(1) (1) The Secretary shall give written notification of
7 the results of evaluation and testing conducted pursuant to
8 subsection (k) of this section to the licensed manufacturer,
9 licensed importer, licensed dealer, or licensed collector sub-
10 mitting samples of a handgun model for such evaluation and
11 testing. If any handgun model fails to meet the standards for
12 approval, the Secretary’s notification shall state specifically
13 the reasons for such finding.

14 “(2) Any licensed manufacturer, licensed importer,
15 licensed dealer, or licensed collector submitting to the Secre-
16 tary for testing a handgun model which is subsequently found
17 not in compliance with relevant standards shall have ten days
18 from receipt of notification of noncompliance within which
19 to submit in writing specific objections to such findings and a
20 request for retesting such model, together with justification
21 therefor. Upon receipt of such a request the Secretary shall
22 promptly arrange for retesting and thereafter notify the ag-
23 grieved party of the results, if he determines sufficient justifi-
24 cation for retesting exists. Should he determine that retesting
25 is not warranted, the Secretary shall promptly notify the

1 aggrieved party as to such determination. In the event that
2 upon retesting the Secretary's finding remains adverse, or
3 that the Secretary finds retesting is not warranted, the ag-
4 grieved party may within sixty days after the date of the
5 Secretary's notice of such finding file a petition in the United
6 States district court in the district in which the aggrieved
7 party resides or has his principal place of business in order
8 to obtain judicial review of such finding. Such review shall
9 be in accordance with the provisions of section 706 of title 5,
10 United States Code.

11 “(3) The Secretary shall publish in the Federal Reg-
12 ister at least semiannually a list of handgun models which
13 have been tested and the results of those tests. Handgun
14 models:

15 “(A) not in manufacture on or after the effective
16 date of this subsection; and

17 “(B) which have not been tested or for which the
18 test results have not been published;

19 shall be deemed to be approved under section 923(k) of
20 this chapter until such time as notice of their disapproval
21 has been published in the Federal Register. The list shall
22 also be included with the published ordinances required un-
23 der section 921(a) (26) to be furnished to each licensee
24 under this chapter.”.

1 SEC. 8. Section 924 of title 18, United States Code, is
2 amended:

3 (a) by adding after the words "violates any pro-
4 vision of this chapter" in the first sentence of subsec-
5 tion (a) the words ", other than subsection (j) of sec-
6 tion 922,";

7 (b) by adding the following at the end of subsec-
8 tion (a): "Whoever violates section 922 (j) of this
9 chapter shall be fined not more than \$1,000, or im-
10 prisoned not more than one year, or both."; and

11 (c) by amending subsection (c) to read as follows:

12 "(c) Whoever—

13 "(1) uses a firearm to commit any felony for which
14 he may be prosecuted in a court of the United States, or

15 "(2) carries a firearm during the commission of
16 any felony for which he may be prosecuted in a court
17 of the United States,

18 shall, in addition to the punishment provided for the com-
19 mission of such felony, be sentenced to a term of imprison-
20 ment of not less than one year nor more than ten years in
21 the case of the first offense, and to a term of imprisonment
22 of not less than two nor more than twenty-five years for a
23 second or subsequent offense. Notwithstanding any other pro-
24 vision of law, the court shall not suspend the sentence of such
25 person or give him a probationary sentence, **nor shall the**

1 term of imprisonment imposed under this subsection run
2 concurrently with any term of imprisonment imposed for the
3 commission of such felony.”.

4 SEC. 9. Section 925 of title 18, United States Code is
5 amended:

6 (a) by adding after the word “firearms” in sub-
7 section (a) (2) the words “, other than a handgun of a
8 model which has not been approved by the Secretary of
9 the Treasury pursuant to section 923 (k) of this
10 chapter,”;

11 (b) by adding after the words “may receive a fire-
12 arm” in subsection (a) (3) the words “, other than
13 a handgun of a model which has not been approved by
14 the Secretary of the Treasury pursuant to section 923
15 (k) of this chapter,”;

16 (c) by adding after the words “of any firearm” in
17 subsection (a) (4) the words “, other than a handgun
18 of a model which has not been approved by the Secre-
19 tary of the Treasury pursuant to section 923 (k) of this
20 chapter,”;

21 (d) by designating existing subsection “(c)” as
22 subsection “(c) (1)” and adding a new paragraph to
23 subsection (c) as follows:

24 “(2) Any person who, having been adjudicated
25 as mentally incompetent, or who, having been com-

mitted to a mental institution, subsequently has been adjudicated by a court or other lawful authority to have been restored to mental competency, if such court or other lawful authority specifically finds that the person is no longer suffering from a mental disorder and that the possession of a firearm by the person would not pose a danger to the person or to the person of another, shall be relieved from the disabilities imposed by this chapter with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred because of such adjudication or commitment.”;

(e) by adding after the words “National Firearms Act” in subsection (c) (1) the words “or of a State or local law which relates to the importation, manufacture, sale or transfer, of a firearm”; and

(f) by amending subsection (d) (3) to read as follows:

“(3) is of a type that does not fall within the definition of a firearm as defined in section 5845 (a) of the Internal Revenue Code of 1954; is not a surplus military firearm; is generally recognized as particularly suitable for sporting purposes; and, if a handgun, the model has been approved by the Secretary pursuant to section 923 (k) of this chapter; or”.

1 SEC. 10. Section 926 of title 18, United States Code,
2 is amended:

3 (u) by deleting "and" at the end of paragraph (1);

4 (b) by deleting the period at the end of paragraph
5 (2) and inserting in lieu thereof "; and ";

6 (c) by adding after paragraph (2) the following
7 new paragraph:

8 "(3) regulations precluding multiple sales or
9 transfers of handguns under section 922 (1) to persons
10 who do not demonstrate to the satisfaction of the
11 Secretary in a transaction involving a licensed manu-
12 facturer, licensed importer, licensed dealer, or licensed
13 collector, that such purchase or transfer is for lawful
14 purposes, as defined in the regulations, and regulations
15 concerning the notice required under section 922 (1)
16 (2).".

17 (d) by designating the existing section as subsec-
18 tion "(a)" and by adding a new subsection (b) as
19 follows:

20 "(b) Any officer or employee of the Bureau of Alcohol;
21 Tobacco, and Firearms who is designated by the Secretary
22 to carry out the provisions of this chapter is authorized to
23 administer such oaths or affirmations as may be necessary

1 for the enforcement of this chapter and any other provision
2 of law or regulation administered by the Bureau.”.

3 SEC. 11. Title VII of the Omnibus Crime Control and
4 Safe Streets Act of 1968 (18 U.S.C. Appendix 1202-1203)
5 is hereby repealed.

6 SEC. 12. Section 1715 of title 18, United States Code,
7 is amended:

8 (a) by adding after the words “Such articles” in
9 the second sentence the words “, other than handguns
10 whose transfer is restricted under section 922 (d) , “;
11 and

12 (b) by adding after the second sentence the fol-
13 lowing new sentence: “The Postal Service shall pro-
14 mulgate regulations, subject to approval of the Secretary
15 of the Treasury, consistent with section 922 (d) of this
16 title, concerning conveyance in the mails of handguns
17 subject to that section for the United States or any
18 department or agency thereof, or to any State, depart-
19 ment, agency or political subdivision thereof.”.

20 SEC. 13. This Act shall become effective ninety days
21 after the date of enactment, except that:

22 (a) the amendments to section 922 (a) (2) (A)
23 shall not preclude the return within thirty days of the
24 effective date to the person from whom it was received
25 of a handgun of a model not approved by the Secretary

1 under section 923 (k) which was transferred to the
2 licensed importer, licensed manufacturer, licensed dealer,
3 or licensed collector before the effective date of the Act;

4 (b) section 5 (i) shall become effective on the
5 date of enactment;

6 (c) a valid license issued pursuant to section 923
7 of title 18, United States Code, shall be valid until it
8 expires according to its terms unless it is sooner sus-
9 pended, revoked or terminated pursuant to applicable
10 provisions of law; and

11 (d) the first publication of the list required under
12 section 923 (l) (3) shall be on or before the date of
13 expiration of the sixty-day period following the date
14 of enactment.

94TH CONGRESS
1ST SESSION

H. R. 9763

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1975

Mr. McCLORY introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18 of the United States Code to reduce violent crime by providing stricter handgun control, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Firearms Act of
4 1975".

5 TITLE I—CONGRESSIONAL FINDINGS

6 SEC. 101. The Congress hereby finds and declares—

7 (1) that violent crime in the United States has been
8 increasing at an uncontrollable rate;

9 (2) that the handgun has increasingly become the
10 principal instrument of such violent crime and now

1 threatens the peace and domestic tranquillity of citizens
2 of the United States, the security and general welfare
3 of this Nation, general law enforcement and the integrity
4 of State and local firearms control laws;

5 (3) that the personal safety of the President and
6 other Federal officials and candidates for Federal office
7 is seriously threatened by assassins wielding handguns
8 and other firearms;

9 (4) that there now exists a substantial illicit inter-
10 state traffic in handguns which includes traffic from juris-
11 dictions with more stringent regulation of handguns to
12 jurisdictions with more stringent regulation of handgun
13 acquisition and possession;

14 (5) that throughout the United States convicted
15 felons, mental incompetents, and other disqualified per-
16 sons have virtually unrestricted access to, and possession
17 of, handguns which are used in violent crime;

18 (6) that handgun acquisition and possession and
19 use, even where purely intrastate in character, directly
20 affects and burdens interstate commerce;

21 (7) that persons obtaining Federal licenses to im-
22 port, manufacture, or deal in firearms should be bona fide
23 importers, manufacturers, or dealers operating within
24 Federal, State, and local laws, and subject to close
25 supervision and control;

1 (8) that pawnbroker's have been shown to be the
2 source of large numbers of handguns used in crime and
3 should not be permitted to deal in such firearms;

4 (9) that one of the greatest threats to the peace
5 and security and domestic tranquillity of the United
6 States is the inexpensive, low quality and easily con-
7 cealable handguns, commonly known as Saturday night
8 specials, which have no legitimate purpose;

9 (10) that acquisition and possession of handguns by
10 felons and by other persons barred from possession of
11 handguns by Federal, State, or local law requires an
12 increased obligation on dealers in firearms and on law
13 enforcement agencies to assure that there is no acquisi-
14 tion, possession or use of a handgun by a person not
15 authorized to possess it;

16 (11) that interrelated systems of handgun owner
17 identification and handgun registration is required to
18 prevent the acquisition, possession and use of handguns
19 by disqualified persons;

20 (12) that such systems will not unduly interfere
21 with the activities and privileges of law abiding citizens;

22 (13) that the Federal, State, and local govern-
23 ments have not adequately enforced the numerous stat-
24 utes currently in force directed against the criminal mis-
25 use of firearms;

1 (14) that there is a need for all levels of govern-
2 ment to recognize the threat which the criminal misuse
3 of firearms poses, and to begin a serious and coor-
4 dinated effort to fight and eliminate the high level of
5 firearms misuse; and

6 (15) that the State and local governments need the
7 financial assistance of the Federal Government to begin
8 to develop programs to prevent firearms misuse.

9 **TITLE II—AMENDMENTS TO GUN CONTROL**

10 **ACT OF 1968**

11 **DEFINITION OF INTERSTATE COMMERCE**

12 **SEC. 201.** Section 921 (a) (2) of title 18 of the United
13 States Code is amended by striking out “but such term does
14 not include commerce between places within the same State,
15 but through any place outside of that State”.

16 **REVISION OF DEALER QUALIFICATIONS**

17 **SEC. 202.** (a) Section 921 (a) of title 18 of the United
18 States Code is amended by striking out paragraphs (11) and
19 (12) and inserting in lieu thereof the following:

20 “(11) The term ‘dealer’ means any person who is
21 (A) engaged in the business of ammunition retailer, (B)
22 engaged in the business of gunsmith, or (C) engaged in
23 the business of firearms dealer. The term ‘licensed dealer’
24 means any dealer who is licensed under the provisions of
25 this chapter.

1 “(12) The term ‘ammunition retailer’ means any per-
2 son who is not otherwise a dealer and who is engaged in
3 the business of selling ammunition (other than ammunition
4 for destructive devices) at retail.

5 “(13) The term ‘gunsmith’ means any person who
6 is not otherwise a dealer and who is engaged in the business
7 of repairing firearms or making or fitting special barrels,
8 stocks, or trigger mechanisms to firearms.

9 “(14) The term ‘firearms dealer’ means any person
10 who is engaged in the business of selling firearms or ammu-
11 nition at wholesale or retail.

12 “(15) The term ‘pawnbroker’ means any person whose
13 business or occupation includes the taking or receiving, by
14 way of pledge or pawn, of rifles or shotguns as security for
15 the payment or repayment of money.”.

16 (b) Such section 921 (a) is further amended by redesignig-
17 nating paragraphs (13) through (20) as (16) through
18 (23) respectively.

19 (c) Section 922 (a) (1) of title 18 of the United States
20 Code is amended by inserting “repairing,” immediately
21 after “manufacturing,”

22 (d) Section 923 (a) of title 18 of the United States Code
23 is amended—

1 (1) by inserting immediately after the sentence be-
2 ginning "The application shall be in such form and con-
3 tain such information" the following: "No application
4 shall be accepted from a pawnbroker to deal in firearms
5 other than shotguns or rifles.";

6 (2) by striking out paragraphs (1) (B) and (1)
7 (C) and inserting in lieu thereof the following:

8 "(B) of firearms other than destructive devices
9 or handguns, a fee of \$250 per year;

10 "(C) of firearms, including handguns, but not
11 including destructive devices, a fee of \$500 per
12 year; or

13 "(D) of ammunition for firearms other than
14 ammunition for destructive devices, a fee of \$250
15 per year.";

16 (3) by striking out "or" at the end of paragraph
17 (2) (A);

18 (4) by striking out paragraph (2) (B) and insert-
19 ing in lieu thereof the following:

20 "(B) of firearms other than destructive devices
21 or handguns, or of ammunition for firearms other
22 than destructive devices, a fee of \$250 per year; or

23 "(C) of firearms, including handguns, but not
24 including destructive devices, a fee of \$500 per
25 year.";

(5) by amending paragraph (3) (B) to read as follows:

“(B) who is a pawnbroker dealing in rifles and shotguns, a fee of \$500 per year;” and

(6) by striking out paragraph (3) (C), and inserting in lieu thereof the following:

“(C) who is not a dealer in destructive devices or handguns, a gunsmith, or an ammunition retailer in other than ammunition for destructive devices, a fee of \$100 per year;

“(D) in firearms including handguns, but who is not a gunsmith or a dealer in destructive devices, \$200 per year;

“(E) who is a gunsmith, a fee of \$50 per year; or

“(F) who is an ammunition retailer in other than ammunition for destructive devices, a fee of \$25 per year.”;

(e) Section 923 (c) of title 18 of the United States Code is amended—

(1) by inserting “(1)” immediately after “(c)”;

and

(2) by adding at the end the following new paragraph:

“(2) No application to renew the license of a manu-

1 manufacturer or importer shall be approved until the Secre-
2 tary has inspected the premises for which the license is
3 sought and reviewed the records of the applicant and
4 determined that the applicant for renewal is in compli-
5 ance with the requirements of this chapter.”.

6 (f) Section 923 (d) (1) of title 18 of the United States
7 Code is amended—

8 (1) by inserting “if the Secretary finds that” imme-
9 diately after “approved”;

10 (2) by amending subparagraph (B) to read as
11 follows:

12 “(B) the applicant (including, in the case of
13 a corporation, partnership, or association, any in-
14 dividual possessing, directly or indirectly, the power
15 to direct or cause the direction of the management
16 and policies of the corporation, partnership, or
17 association) —

18 “(i) is not prohibited from possessing,
19 transporting, shipping, or receiving firearms or
20 ammunition under section 922 (g) of this
21 chapter;

22 “(ii) is not prohibited by State or local
23 law of his place of business from conducting
24 the business of transporting, shipping, receiv-

1 ing, selling, transferring, owning, or possessing
2 the firearms or ammunition to which the license
3 would apply; and

4 “(iii) is, by reason of his business expe-
5 rience, financial standing, or trade connections,
6 likely to commence the business for which the
7 license is applied within a reasonable period of
8 time and to maintain such business in con-
9 formity with Federal, State, and local law;”;

10 (3) by striking out “and” at the end of subpara-
11 graph (D) ;

12 (4) by striking out the period at the end of sub-
13 paragraph (E) and inserting a semicolon in lieu thereof;

14 (5) by inserting immediately after subparagraph
15 (E) the following:

16 “(F) the applicant is familiar with the appropriate
17 requirements, as determined by the Secretary, of Fed-
18 eral, State, and local law concerning the importation,
19 manufacture, sale, distribution, and repair of firearms;
20 and

21 “(G) the applicant has on the premises for the
22 licensed activity adequate security devices and personnel
23 to maintain the security of firearms, firearms parts, or
24 ammunition stored on such premises.”.

25 (g) Section 923 (d) (2) of title 18 of the United States

1 Code is amended by striking out in the first sentence thereof
2 "forty-five" and inserting in lieu thereof "ninety".

3 (h) Sections 923 (e) and (f) of title 18 of the United
4 States Code are amended to read as follows:

5 " (e) The Secretary may suspend or revoke any license
6 issued under this section, or may subject the licensee to a
7 civil penalty of up to \$10,000 per violation, if the holder
8 of such license has violated any provision of this chapter
9 or any rule or regulation prescribed by the Secretary under
10 this chapter. The Secretary may at any time compromise,
11 mitigate, or remit the liability with respect to such violation.
12 The Secretary's action under this subsection may be reviewed
13 only as provided in subsection (f) of this section.

14 " (f) (1) Any person whose application for a license is
15 denied and any holder of a license which is suspended or
16 revoked or who is assessed a civil penalty shall receive a
17 written notice from the Secretary stating specifically the
18 grounds upon which the application was denied or upon
19 which the license was suspended or revoked or the civil
20 penalty assessed. Any notice of a suspension or revocation
21 of a license shall be given to the holder of such license before
22 the effective date of the suspension or revocation.

23 " (2) If the Secretary denies an application for, or
24 suspends or revokes a license, or assesses a civil penalty, he

1 shall, upon request by the aggrieved party, promptly hold
2 a hearing to review his denial, suspension, revocation, or
3 assessment. In the case of a suspension or revocation of a
4 license, the Secretary shall upon the request of the holder
5 of the license stay the effective date of the suspension or
6 revocation. A hearing held under this paragraph shall be
7 held at a location convenient to the aggrieved party.

8 “(3) If after a hearing held under paragraph (2)
9 the Secretary decides not to reverse his decision to deny an
10 application or suspend or revoke a license or assess a civil
11 penalty, the Secretary shall give notice of his decision to
12 the aggrieved party. The aggrieved party may at any time
13 within sixty days after the date notice was given under this
14 paragraph file a petition with the United States district court
15 for the district in which he resides or has his principal place
16 of business for a judicial review of such denial, suspension,
17 revocation, or assessment. In a proceeding conducted under
18 this subsection, the court may consider any evidence sub-
19 mitted by the parties to the proceeding. If the court decides
20 that the Secretary was not authorized to deny the application
21 or to suspend or revoke the license or to assess the civil
22 penalty, the court shall order the Secretary to take such
23 action as may be necessary to comply with the judgment of
24 the court.”;

1 RECORDKEEPING BY LICENSEES; SUBMISSION OF QUAR-
2 TERLY REPORTS; REPORTS OF LOSS OR THEFT

3 SEC. 203. Section 923 (g) of title 18 of the United
4 States Code is amended—

5 (1) by inserting “(1)” immediately after “(g)”;

6 (2) by redesignating clauses (1) and (2) as (A)
7 and (B) respectively; and

8 (3) by adding at the end the following new para-
9 graphs:

10 “(2) Every person licensed under this section shall
11 make quarterly reports to the Secretary which shall include
12 the following information: (A) the number, types, calibers,
13 models and serial numbers of firearms imported or manufac-
14 tured, or sold, delivered or otherwise transferred to other per-
15 sons licensed under this section; (B) the States and localities
16 in which the firearms and ammunition were imported, manu-
17 factured, sold, delivered, or otherwise transferred; (C) the
18 names and addresses of those governmental entities, persons
19 licensed under this section to whom firearms were sold,
20 delivered, or otherwise transferred; (D) the names and
21 addresses of each carrier to whom firearms, firearms parts
22 or ammunition were entrusted for shipment; and (E) every
23 factory, warehouse, or other facility in which he manu-
24 factured, received, distributed, stored, or otherwise held any
25 firearms, firearms parts, or ammunition. These reports shall

1 not be made public except as authorized by this chapter.

2 “(3) The Secretary shall compile the information con-
3 tained in the reports required by paragraph (2) above
4 and submit to Congress annual reports containing summaries
5 of such information describing the pattern of firearms manu-
6 facture, traffic, and sale in the United States. The annual
7 reports to Congress and shall also provide information on
8 the success of the Federal Government in aiding State and
9 local efforts to curb the illicit traffic in handguns, and on
10 the effectiveness, administration, and estimated compliance
11 with the provisions of this chapter.

12 “(4) The Secretary shall maintain an indexed list of
13 all licenses issued under this section, according to license
14 classification. Such list shall also contain information com-
15 piled on a basis no less frequent than quarterly on the
16 number, models, types, caliber, barrel length, and manu-
17 facturer of handguns produced or sold by each licensee. The
18 list and the information shall not be made public except as
19 permitted by this chapter.

20 “(5) The Secretary shall compile and maintain with
21 current information a list by State, of every city or county
22 within its jurisdiction which prohibits the sale of handguns
23 or other firearms, requires a license or permit to purchase a
24 handgun or other firearm, a waiting period between purchase
25 and receipt, or requires residents to register such weapons

1 upon purchase. At least twice each year this list shall be
2 distributed to all licensed firearms dealers.

3 “(6) Every person licensed under this section shall
4 report to the Secretary the loss or theft of any firearm
5 or ammunition in the custody, possession, or control of such
6 person not later than forty-eight hours after the discovery
7 of such loss or theft.”.

8 PROHIBITION OF CERTAIN HANDGUNS; AMENDMENTS TO
9 UNLAWFUL ACTS SECTION; RELIEF FROM DISABILITIES

10 SEC. 204. (a) Section 921 (a) (3) of title 18 of the
11 United States Code is amended by striking out the semicolon
12 at the end of clause (B) and inserting in lieu thereof the fol-
13 lowing: “, or any combination of parts from which any
14 such weapon can be assembled;”.

15 (b) Section 921 (a) of title 18 of the United States
16 Code, as amended by section 202 of this Act, is further
17 amended by adding at the end thereof the following new
18 paragraphs:

19 “(24) The term ‘handgun’ means any firearm which
20 has a short stock and which is designed to be fired by the
21 use of a single hand.

22 “(25) The term ‘pistol’ means a handgun having a
23 chamber or chambers as an integral part or parts of, or per-
24 manently alined with, the bore or bores.

25 “(26) The term ‘revolver’ means a handgun having

1 a breechloading chambered cylinder so arranged that the
2 cocking of the hammer or movement of the trigger rotates
3 the cylinder and brings the next cartridge in line with the
4 barrel for firing.

5 “(27) The term ‘handgun model’ means a handgun of
6 a particular design, specification, and designation.

7 “(28) The term ‘prohibited handgun’ means any hand-
8 gun which is not of a handgun model which the Secretary
9 of the Treasury has evaluated through tests of representa-
10 tive samples and found that such handgun model is particu-
11 larly suitable for sporting purposes and that—

12 “(A) in the case of a pistol, the handgun model—

13 “(1) has a positive manually operated safety
14 device,

15 “(2) has a combined length and height of not
16 less than ten inches with the height (measured
17 from the top of the weapon, excluding sights, at a
18 right-angle measurement to the line of the bore,
19 to the bottom of the frame, excluding magazine
20 extensions or releases) being at least four inches
21 and the length (measured from the muzzle, parallel
22 to the line of the bore, to the back of the part of
23 the weapon that is furthest to the rear of the weap-
24 on) being at least six inches, and

1 “(3) attains a total of at least seventy-five
2 points under the following criteria:

3 “(i) OVERALL LENGTH.—one point for
4 each one-fourth inch over six inches;

5 “(ii) FRAME CONSTRUCTION.—(I)
6 fifteen points if investment cast steel or forged
7 steel, and (II) twenty points if investment cast
8 HTS alloy or forged HTS alloy;

9 “(iii) PISTOL WEIGHT.—one point for
10 each ounce, with the pistol unloaded and the
11 magazine in place;

12 “(iv) CALIBER.—(I) zero points if the
13 pistol accepts only .22 caliber short or .25
14 caliber automatic ammunition, (II) three
15 points if the pistol accepts either .22 caliber
16 long rifle ammunition or any ammunition with-
17 in the range delimited by 7.65 millimeter and
18 .380 caliber automatic, (III) 10 points if the
19 pistol accepts 9 millimeter parabellum ammuni-
20 tion or over, and (IV) in the case of am-
21 munition not falling within one of the classes
22 enumerated in subclauses (I) through (III),
23 such number of points not greater than ten
24 (following the classification schedule of this

1 clause (iv) as nearly as is practicable) as the
2 Secretary shall determine appropriate to the
3 suitability for sporting purposes of handgun
4 models designed for such ammunition;

5 “(v) SAFETY FEATURES.—(I) five points
6 if the pistol has a locked breech mechanism,
7 (II) five points if the pistol has a loaded cham-
8 ber indicator, (III) three points if the pistol
9 has a grip safety, (IV) five points if the pistol
10 has a magazine safety, (V) ten points if the
11 pistol has a firing pin block or lock; and

12 “(vi) MISCELLANEOUS EQUIPMENT.—
13 (I) two points if the pistol has an external
14 hammer, (II) ten points if the pistol has a
15 double action firing mechanism, (III) five
16 points if the pistol has a drift adjustable target
17 sight, (IV) ten points if the pistol has a click
18 adjustable target sight, (V) five points if the
19 pistol has target grips, and (VI) two points
20 if the pistol has a target trigger;

21 “(B) in the case of a revolver, the handgun model—

22 “(1) has an overall frame (with conventional
23 grips) length of four and one-half inches (measured
24 from the end of the frame nearest the muzzle,

1 parallel to the line of the bore to the back of the
2 part of the weapon that is furthest to the rear of
3 the weapon) ;

4 “(2) has a barrel length (measured from the
5 muzzle to the cylinder face) of at least four inches;
6 and

7 “(3) has a safety device which (i) auto-
8 matically in the case of a double action firing mech-
9 anism or (ii) by manual operation in the case of
10 a single action firing mechanism, causes the ham-
11 mer to retract to a point where the firing pin does
12 not rest upon the primer of the cartridge, and which,
13 when activated, is capable of withstanding the im-
14 pact of a weight, equal to the weight of the revolver,
15 dropped a total of five times from a height of thirty-
16 six inches above the rear of the hammer spur onto
17 the rear of the hammer spur with the revolver rest-
18 ing in a position such that the line of the barrel is
19 perpendicular to the plane of the horizon, and

20 “(4) attains a total of at least forty-five points
21 under the following criteria:

22 “(i) BARREL LENGTH.—one-half point for
23 each one-fourth inch that the barrel is longer
24 than four inches;

25 “(ii) FRAME CONSTRUCTION.—(I) fifteen

1 points if investment cast steel or forged steel,
2 (II) twenty points if investment cast high-
3 tensile strength alloy or forged high-tensile
4 strength alloy;

5 “(iii) REVOLVER WEIGHT.—one point for
6 each ounce with the revolver unloaded;

7 “(iv) CALIBER.—(I) zero points if the
8 revolver accepts only .22 caliber short or .25
9 caliber ACP, (II) three points if the revolver
10 accepts .22 caliber long rifle or ammunition in
11 the range between .30 caliber and .38 S&W,
12 (III) four points if the revolver accepts .38
13 caliber special ammunition, (IV) five points
14 if the revolver accepts .357 magnum ammuni-
15 tion or ammunition of an equivalent or greater
16 projectile size or power, and (V) in the case of
17 ammunition not falling within one of the classes
18 enumerated in subclauses (I) through (IV),
19 such number of points not greater than five
20 (following the classification schedule of clause
21 (iv) as nearly as practicable) as the Secretary
22 shall determine appropriate to the suitability
23 for sporting purposes of handgun models de-
24 signed for such ammunition; and

25 “(v) MISCELLANEOUS EQUIPMENT.—(I)

1 five points if the revolver has either drift or
2 click adjustable target sights, (II) five points
3 if the revolver has target grips, and (III) five
4 points if the revolver has a target hammer and
5 a target trigger.”.

6 (e) Section 922 of title 18 of the United States Code,
7 as amended by section 202 of this Act, is further amended—

8 (1) by inserting immediately after “replacement
9 firearm” in subsection (a) (2) (A) the following: “,
10 other than a prohibited handgun,”;

11 (2) by inserting immediately after “mailing a fire-
12 arm” in subsection (a) (2) (A) the following: “, other
13 than a prohibited handgun,”;

14 (3) by striking out “resides in any State other than
15 that in which the transferor resides (or other than that”
16 in subsection (a) (5) and inserting in lieu thereof the
17 following: “does not reside in the State in which the
18 transferor resides (or does not reside in the State”;

19 (4) by inserting immediately after “rental of a
20 firearm” in subsection (a) (5) the following: “, except
21 a prohibited handgun,”;

22 (5) by inserting immediately after “loan or rental
23 of a firearm” in subsection (b) (3) (B) the following:
24 “, other than a prohibited handgun,”;

25 (6) by inserting immediately after “may sell a

1 firearm" in subsection (c) the following: ", other than
2 a handgun,";

3 (7) by striking out ", in the case of any firearm
4 other than a shotgun or a rifle, I am twenty-one years
5 or more of age, or that, in the case of a shotgun or a
6 rifle," in subsection (c) (1) ;

7 (8) by striking out subsection (d), and inserting
8 in lieu thereof the following:

9 "(d) (1) It shall be unlawful for any person licensed
10 under section 923 of this chapter to import, manufacture,
11 assemble, sell, or transfer any prohibited handgun, other
12 than a curio or relic, into or in the United States.

13 "(2) It shall be unlawful for any person other than a
14 person licensed under section 923 of this chapter to sell or
15 transfer any prohibited handgun, other than a curio or relic,
16 in the United States knowing or having reasonable cause to
17 believe that it is a prohibited handgun.

18 "(3) This subsection shall not apply to the importa-
19 tion, manufacture, sale, delivery or other transfer of any
20 handgun intended for use in testing, analysis by any re-
21 search organization designated by the Secretary. However,
22 any prohibited handgun imported, manufactured, sold, de-
23 livered, or otherwise transferred pursuant to the exceptions
24 of this paragraph or of section 925 shall not thereafter be
25 sold, delivered, or otherwise transferred to any person.

1 “(4) It shall be unlawful for any person to modify
2 a handgun of a handgun model previously approved by the
3 Secretary for manufacture, assembly, importation, sale, or
4 transfer, if as a result of such modification the handgun no
5 longer meets the standards for approval set forth in section
6 921 (a) (28).”.

7 (d) Section 925 of title 18 of the United States Code
8 is amended:

9 (1) by inserting “other than a prohibited hand-
10 gun” immediately after “firearms” in subsection (a)
11 (2);

12 (2) by inserting “other than a prohibited hand-
13 gun” immediately after “may receive a firearm” in sub-
14 section (a) (3);

15 (3) by inserting “other than a prohibited hand-
16 gun” immediately after “of any firearm” in subsection
17 (a) (4);

18 (4) by inserting “or of a State or local law which
19 relates to the importation, manufacture, sale or transfer,
20 of a firearm” immediately after “National Firearms Act”
21 in subsection (c);

22 (5) by redesignating subsection (c), as amended,
23 as (c) (1), and adding a new paragraph immediately
24 thereafter as follows:

25 “(2) Any person who, having been adjudicated as

1 mentally incompetent, or who, having been committed to
2 a mental institution, subsequently has been adjudicated by
3 a court or other lawful authority to have been restored to
4 mental competency, if such court or other lawful authority
5 specifically finds that the person is no longer suffering from
6 a mental disorder and that the possession of a firearm by
7 the person would not pose a danger to the person or to the
8 person of another, shall be relieved from the disabilities im-
9 imposed by this chapter with respect to the acquisition, re-
10 ceipt, transfer, shipment, or possession of firearms incurred
11 because of such adjudication or commitment.”;

12 (6) in subsection (d) (3) by striking out “and is
13 generally recognized” and all that follows down through
14 “surplus military firearms; or” and inserting in lieu
15 thereof the following: “is not a surplus military fire-
16 arm or a prohibited handgun, and, if ammunition, is
17 generally recognized as particularly suitable for sport-
18 ing purpose; or”.

19 (c) Section 926 of title 18 of the United States Code
20 is amended—

21 (1) by inserting “(a)” immediately before the first
22 sentence after the section heading, and by adding at the
23 end of such section the following new subsections:

24 “(b) Any person may submit to the Secretary repre-
25 sentative samples of a handgun model for evaluation under

1 the standards of section 921 (a) (28). The Secretary shall
2 give written notification of the results of evaluation con-
3 ducted under section 921 (a) (28) to the person submitting
4 samples of a handgun model for such evaluation and testing.
5 If the Secretary finds that any handgun model fails to meet
6 the standards for approval, the Secretary's notification shall
7 state specifically the reasons for such finding. Any such noti-
8 fication of the results of evaluation shall be published in
9 the Federal Register. At least twice each year the Secere-
10 tary shall compile a list of all handgun models which
11 are then approved for sale or delivery under this chapter,
12 and of all prohibited handguns, which list shall be published
13 in the Federal Register and furnished annually to each
14 licensee under this chapter.

15 “(c) Any person submitting to the Secretary for eval-
16 uation a handgun model which fails to meet the relevant
17 standards shall have thirty days from receipt of notification
18 of such failure within which to submit in writing specific
19 objections to the results of that evaluation and a request for
20 reevaluating such model, together with justification therefor.
21 Upon receipt of such a request, if the Secretary determines
22 sufficient justification for reevaluation exists, he shall
23 promptly arrange for reevaluation and thereafter notify the
24 aggrieved party of the results. Should he determine that re-

1 testing is not warranted, the Secretary shall promptly notify
2 the aggrieved party as to such determination.

3 “(d) Any officer or employee of the Bureau of Alcohol,
4 Tobacco and Firearms who is designated by the Secretary
5 to carry out the provisions of this chapter is authorized to
6 administer such oaths or affirmations as may be necessary for
7 the enforcement of this chapter and any other provision of
8 law or regulation administered by the Bureau.

9 “(e) (1) Every person who intends to produce any
10 prohibited handgun for sale as authorized under section 922
11 (d) (3) or 925 shall first notify the Secretary of such inten-
12 tion prior to the commencement of such manufacture, and
13 prior to each such sale and shall provide the Secretary with
14 such information as the Secretary may by regulation pre-
15 scribe, including the number of prohibited handguns to be
16 produced; whether such weapons are being made pursuant
17 to an existing order; and the names of the purchasers of
18 such weapons.

19 “(2) The Secretary shall have the authority to dis-
20 approve such sale of any prohibited handgun if he determines
21 that the handguns are not intended for immediate distribu-
22 tion, that the sale is pursuant to an existing order or that
23 their sale would be in violation of any provision of this chap-
24 ter or any regulation issued thereunder.”; and

1 (2) by striking out the period at the end of the
2 section heading and inserting “; **Evaluation and control**
3 **of prohibited handguns.**”.

4 CARRIERS REGULATION

5 SEC. 205. Section 922 of title 18 of the United States
6 Code, as amended by sections 202 and 204 of this Act, is
7 further amended—

8 (1) by inserting “(1)” immediately after “(f)” in
9 subsection (f); and

10 (2) by adding at the end of subsection (f) the
11 following new paragraphs:

12 “(2) It shall be unlawful for any person to ship or trans-
13 port any firearm or ammunition in interstate or foreign com-
14 merce if such shipment or transportation is in violation of a
15 State law in a place to which or through which the firearm
16 was shipped or transported or of a published ordinance appli-
17 cable at the place of sale, delivery, or other disposition.

18 “(3) It shall be unlawful for any common or contract
19 carrier to transport any firearm or ammunition in a man-
20 ner not in conformity with regulations which the Secretary
21 shall promulgate to insure safe and secure transportation of
22 the firearms or ammunition.

23 “(4) Each person engaged in the business of trans-
24 porting firearms or ammunition shall register with the Sec-
 retary their names, the chief executive officer, address, fleet

1 size, license plate numbers or other vehicular identification
2 numbers, and the States in which it conducts business within
3 sixty days after the date of the enactment of this Act and
4 thereafter on June 1 of each year. Each carrier shall re-
5 port to the Secretary the loss or theft of any firearm or am-
6 munition in the custody, possession, or control of such carrier
7 not later than forty-eight hours after the discovery of such
8 loss or theft. Such report shall be made on forms prescribed
9 by the Secretary which shall contain the serial number,
10 manufacturer, barrel length, frame length, caliber, model,
11 type, and the consignee and his address. Manufacturers and
12 wholesale dealers shall provide the carrier with a list of serial
13 numbers of all guns shipped. The carrier shall maintain a
14 copy of such list on his premises. The carrier shall record the
15 license number and other description of the vehicle carrying
16 such weapons. In addition, the driver and other employees
17 accompanying the shipment as well as the names of persons
18 moving firearms or having custody of them shall be identified.

19 MISCELLANEOUS AMENDMENTS TO UNLAWFUL ACTS

20 SECTION

21 SEC. 206. (a) Section 922 of title 18 of the United
22 States Code, as amended by sections 202, 204, and 205 of
23 the Act, is further amended—

24 (1) by striking out “drug (as defined in section 201
25 (v) of the Federal Food, Drug, and Cosmetic Act)”

1 in subsection (g) (3) and inserting in lieu thereof
2 "substance";

3 (2) by striking out " (as defined in section 4731 (a)
4 of the Internal Revenue Code of 1954) ; or" in sub-
5 section (g) (3) and inserting in lieu thereof "as those
6 terms are defined in section 102 of the Controlled
7 Substances Act (21 U.S.C. 802) ;";

8 (3) by amending subsection (g) (4) to read as
9 follows:

10 " (4) who has been adjudicated as mentally incom-
11 petent or has been committed to a mental institution;
12 or";

13 (4) by striking out "to ship or transport any firearm
14 or ammunition in interstate or foreign commerce" in
15 subsection (g) and inserting in lieu thereof:

16 " (5) who, being an alien, is illegally or unlawfully
17 in the United States;

18 to possess, ship, transport, or receive any firearms or ammu-
19 nition.";

20 (b) By striking out subsection (h) and inserting in
21 lieu thereof the following:

22 " (h) (1) It shall be unlawful for any person who, while
23 being employed by a person who is prohibited from possess-
24 ing, shipping, transporting, or receiving firearms or ammu-
25 nition under subsection (g), and who, knowing or having

1 reason to believe his employer falls within one of the classifi-
2 cations enumerated in subsection (g), to possess any firearm
3 or ammunition, in the course of such employment.

4 “(2) It shall be unlawful for any person to sell or other-
5 wise dispose of any firearm or ammunition to any person
6 unless he knows or has reasonable cause to believe that such
7 person is not prohibited from possessing, shipping, transport-
8 ing, or receiving a firearm or ammunition under subsection
9 (g) or (h) (1) of this section. This subsection shall not
10 apply with respect to the sale or disposition of a firearm or
11 ammunition to a licensed importer, licensed manufacturer,
12 licensed dealer, or licensed collector who pursuant to sub-
13 section (b) of section 925 of this chapter is not precluded
14 from dealing in firearms or ammunition.”

15 (c) Title VII of the Omnibus Crime Control and Safe
16 Streets Act of 1968 (18 U.S.C. App. 1201-1203) is
17 repealed.

18 PROHIBITION OF MULTIPLE HANDGUN SALES; REGULATION
19 OF SECONDARY HANDGUN SALES; CONTROL OF IMITA-
20 TION OF FIREARMS; REGULATION OF DEALERS

21 SEC. 207. Section 922 of title 18 of the United States
22 Code, as amended by sections 202, 204, 205, and 206 of
23 this Act, is further amended by adding at the end the fol-
24 lowing new subsections:

25 “(n) (1) It shall be unlawful for any person licensed

1 under section 923 of this chapter to sell, deliver, or other-
2 wise transfer two or more handguns to the same person,
3 other than a person licensed under such section 923, in
4 a period of thirty days or less, unless the transferee has
5 obtained prior approval of the purchase from the Secre-
6 tary, pursuant to regulations promulgated by the Secretary.

7 “(2) It shall be unlawful for any person, other than a
8 person licensed under section 923 of this chapter, to purchase
9 or receive two or more handguns in a period of thirty days or
10 less from one or more persons licensed under such section
11 923, or from such a licensee and from a person or persons
12 who are not such licensees, unless the person purchasing or
13 receiving the handguns has obtained prior approval of the
14 purchase from the Secretary pursuant to regulations promul-
15 gated by the Secretary.

16 “(3) It shall be unlawful for any person, other than a
17 person licensed under such section 923 to purchase or receive
18 two or more handguns in a period of thirty days or less
19 from a person or persons not licensed under such section
20 923 unless the person purchasing or receiving the handguns
21 notifies the Secretary of such purchase or receipt within
22 thirty days after the purchase or receipt.

23 “(o) It shall be unlawful for any person who pur-
24 chases or receives a handgun with the purpose of selling
25 or transferring the handgun to another person to sell or

1 transfer the handgun to such other person unless he knows
2 or has reasonable cause to believe that the purchase and
3 possession by such other person of the handgun would be
4 in accordance with Federal, State, and local law applicable
5 at the place of sale, delivery, or other disposition.

6 “(p) It shall be unlawful for any person to import,
7 manufacture, deal in, or transfer any imitation of a firearm
8 that is not clearly marked or identifiable as an imitation in
9 such manner as the Secretary shall by regulation prescribe.

10 “(q) It shall be unlawful for any person licensed under
11 section 923 of this chapter to—

12 “(1) repair, rebuild, remodel, alter or otherwise
13 perform work on any handgun unless the owner verifies,
14 in such manner as the Secretary shall by regulation
15 prescribe, that the owner is in lawful possession of the
16 handgun; and

17 “(2) repair, rebuild, remodel, alter, or otherwise
18 perform work on any prohibited handgun unless the
19 owner of the handgun is one of the persons who is
20 eligible to own or possess such a handgun under the pro-
21 visions of section 922 (d) (3) or 925. The provisions of
22 section 922 (d) (2) shall not apply to a transfer of a
23 prohibited handgun by a person not licensed under
24 section 923 of this chapter to a person so licensed, for
25 the purpose of modifying the prohibited handgun to meet

1 the standards of approval set forth in section 923 (a)
2 (28) of this chapter.

3 “(r) It shall be unlawful for any person licensed under
4 section 923 of this chapter knowingly to sell, deliver, or
5 otherwise transfer a firearm to any person who resides in
6 any jurisdiction which requires a license or permit as a pre-
7 requisite to purchase that firearm unless the purchaser has
8 complied with the law of that jurisdiction pertaining to
9 licenses or permits. In the case of a jurisdiction which
10 requires the registration of a handgun or other firearm
11 each licensed dealer shall forward to the local law en-
12 forcement authority notice of any purchase made by a
13 resident of that jurisdiction within the time limit required by
14 the registration law of that jurisdiction. In the case of a
15 jurisdiction which requires a waiting period to purchase a
16 handgun or other firearm, each dealer shall submit notice of
17 such purchase to the law enforcement authority of the pur-
18 chaser's residence and shall not transfer the firearm within
19 the waiting period of that jurisdiction.”.

20

SERIAL NUMBERS

21 SEC. 208. (a) Section 923 (i) of title 18 of the United
22 States Code is amended to read as follows:

23 “(i) Licensed importers and licensed manufacturers
24 shall identify, by means of a serial number, each firearm

1 imported or manufactured by such importer or manufacturer,
2 on the receiver or frame of the weapon, in such manner and
3 within such time as the Secretary shall by regulation pre-
4 scribe. The Secretary shall standardize the serialization of
5 firearms to insure that every handgun manufactured after the
6 effective date of the amendment made to this subsection by
7 the Federal Firearms Act of 1975 is marked with a unique
8 serial number."

9 (b) Section 922(k) of title 18 of the United States
10 Code is amended by inserting immediately after "any fire-
11 arm which" the following: "does not bear a serial number
12 or which".

13 AMENDMENT TO POSTAL PROVISIONS OF TITLE 18

14 SEC. 209. Section 1715 of title 18, United States Code,
15 is amended:

16 (a) by inserting immediately after "Such articles"
17 in the second sentence the following: ", other than
18 handguns whose transfer is restricted under section
19 922(d),"; and

20 (b) by inserting immediately after the second
21 sentence the following new sentence: "The Postal
22 Service shall promulgate regulations, subject to approval
23 of the Secretary of the Treasury, consistent with section
24 922(d) of this title, concerning conveyance in the mails

1 of handguns subject to that section for the United
 2 States or any department or agency thereof, or to any
 3 State, department, agency, or political subdivision
 4 thereof.”.

5 EFFECTIVE DATES

6 SEC. 210. (a) The amendments made by this title
 7 shall take effect ninety days after the date of enactment.

8 (b) A valid license issued pursuant to section 923 of
 9 title 18 of the United States Code shall be valid until it ex-
 10 pires according to its terms unless it is sooner suspended,
 11 revoked, or terminated pursuant to applicable provisions of
 12 law.

13 TITLE III—FEDERAL HANDGUN OWNER'S 14 IDENTIFICATION CARD, AND NATIONAL 15 HANDGUN REGISTRATION STANDARDS

16 IDENTIFICATION CARD AND NATIONAL HANDGUN

17 REGISTRATION STANDARDS

18 SEC. 301. Chapter 44 of title 18 of the United States
 19 Code is amended by redesignating sections 924, 925 and
 20 926 (as amended by title I of this Act), 927, and 928,
 21 as 931 through 935, respectively, and by inserting immedi-
 22 ately after section 923 the following new sections:

23 “§ 924. Federal Handgun Owner's Identification Card.

24 “(a) (1) A person, other than a person licensed under
 section 923 of this chapter, may purchase, receive, own, or

1 possess a handgun or ammunition other than ammunition
2 for a rifle or shotgun only if that person holds a valid
3 Federal Handgun Owner's Identification Card previously
4 issued to that person by the Secretary in accordance with
5 this section.

6 “(2) A person may sell, deliver, or otherwise transfer
7 to another person other than a person licensed under
8 section 923 a handgun, or ammunition other than ammuni-
9 tion for a rifle or a shotgun, only if the transferee first
10 displays to the transferor a valid Federal Handgun Owner's
11 Identification Card.

12 “(b) A Federal Handgun Owner's Identification Card
13 shall be in such form and shall contain such information as
14 the Secretary shall by regulation prescribe, including—

15 “(1) a unique Federal Handgun Owner's Identifi-
16 cation number;

17 “(2) the applicant's name, address, and date of
18 birth;

19 “(3) a physical description of the applicant;

20 “(4) a recent photograph of the applicant; and

21 “(5) an appropriate notation if the State, city, or
22 county in which the cardholder resides requires a license
23 or permit to purchase handguns or other firearms, or
24 if such State, city, or county requires its residents to
25 register such handguns or firearms.

1 “(c) The Federal Handgun Owner's Identification
2 Card shall not entitle the holder to purchase, own, or possess
3 a handgun, if such purchase, ownership, or possession would
4 be in violation of any other Federal, State, or local law.

5 “(d) The Secretary shall issue a Federal Handgun
6 Owner's Identification Card after approval of a properly
7 completed application for such Card filed, together with a
8 fee of \$15, in such form and in such manner as the Secre-
9 tary shall by regulation prescribe. Each applicant shall sub-
10 mit a complete set of fingerprints with his application, which
11 set of fingerprints shall be transmitted to the Federal Bureau
12 of Investigation and other appropriate agencies to determine
13 if the defendant is in any category listed in paragraphs (1)
14 through (9) of this subsection. The Federal Handgun Own-
15 er's Identification Card shall be valid for a period of five
16 years from the date of its issuance. A properly completed
17 application shall be approved and the card shall be issued
18 unless the applicant—

19 “(1) is under eighteen years of age;

20 “(2) is under indictment for, or has been con-
21 victed in any court of, a crime punishable by imprison-
22 ment for a term exceeding one year;

23 “(3) is a fugitive from justice;

24 “(4) is an unlawful user of, or is addicted to, mari-
25 juana or any depressant or stimulant substance or nar-

1 cotic drug as those terms are defined in section 102 of
2 the Controlled Substances Act (21 U.S.C. 802) ;

3 “(5) has been adjudicated a mental incompetent, or
4 has been committed to any mental institution;

5 “(6) who, being an alien, is illegally or unlawfully
6 in the United States;

7 “(7) has willfully violated any of the provisions of
8 this chapter or regulations issued thereunder;

9 “(8) is otherwise disqualified under any applicable
10 Federal, State, or local law from purchasing, owning,
11 or possessing a handgun; or

12 “(9) has willfully failed to disclose any mate-
13 rial information required, or has made any false state-
14 ment as to any material fact, in connection with his appli-
15 cation.

16 “(e) (1) The application shall be approved or denied
17 by the Secretary within sixty days of its receipt. If the
18 Secretary finds that the applicant is not entitled to a Federal
19 Handgun Owner's Identification Card, the Secretary shall
20 deny the application and shall promptly provide the appli-
21 cant with written notice of the denial, and a written state-
22 ment of the reasons for the denial and the findings on which
23 the denial is based.

24 “(2) Any person whose application for a Federal Hand-
25 gun Owner's Identification Card is denied may, within one

1 hundred and twenty days of the receipt of the notice of the
2 denial and the statement of the reasons and findings on which
3 the denial is based, resubmit the application together with a
4 written statement of the reasons why the Secretary should
5 rescind the denial and issue the Federal Handgun Owner's
6 Identification Card. Such person may also request a hearing
7 on the resubmitted application, if that person desires to con-
8 test any findings of fact on which the denial was based. The
9 Secretary shall reconsider the denial, and shall consider the
10 request for a hearing. If the Secretary finds that there is good
11 cause to hold the requested hearing, the hearing shall be held
12 not later than sixty days after the receipt of the resubmitted
13 application.

14 “(3) If the Secretary finds that there is not good cause
15 for such a hearing, he shall rescind or affirm the denial within
16 thirty days of the resubmitted application. If the Secretary
17 rescinds the denial he shall issue the applicant a Federal
18 Handgun Owner's Identification Card. If, after granting
19 the applicant a hearing, the Secretary affirms the original
20 denial, or, if the Secretary affirms the denial after finding that
21 no hearing is justified, he shall promptly provide the appli-
22 cant with a written statement of the reasons for the affirm-
23 ance, and the reasons for the denial of the requested hearing.

24 “(f) (1) The Secretary may suspend or revoke a
Federal Handgun Owner's Identification Card if the holder

1 of that Card no longer satisfies the conditions of subsection
2 (b) of this section.

3 “(2) The holder of a Federal Handgun Owner’s Identi-
4 fication Card which has been suspended or revoked shall
5 surrender that Federal Handgun Owner’s Identification
6 Card to the Secretary during the period of such suspension
7 or revocation. During a period of suspension a person whose
8 Federal Handgun Owner’s Identification Card has been
9 suspended shall not be entitled to purchase or otherwise
10 receive handguns. During the period of revocation, a person
11 whose Federal Handgun Owner’s Identification Card has
12 been revoked shall not purchase, receive, own, or possess a
13 handgun as prohibited by subsection (a) of this section.
14 The Secretary shall promulgate regulations to insure that
15 a person either surrenders his handguns in accordance with
16 section 929 of this chapter, or otherwise disposes of the
17 handguns within sixty days of the revocation of his Federal
18 Handgun Owner’s Identification Card.

19 “(g) A holder of a Federal Handgun Owner’s Identi-
20 fication Card shall notify the Secretary of any change of the
21 cardholder’s name and address, or any loss or theft of the
22 Federal Handgun Owner’s Identification Card in such man-
23 ner as the Secretary shall by regulation prescribe.

24 **“§ 925. National handgun registration standards.**

25 “(a) (1) No person, other than a person licensed under

1 section 923 of this chapter shall purchase, receive, own, or
2 possess a handgun, unless such handgun is registered in ac-
3 cordance with this chapter.

4 “(2) No person shall sell, deliver, or otherwise transfer
5 a handgun to another person, other than a person licensed
6 under section 923, unless the transferor registers such hand-
7 gun as provided in this section.

8 “(b) The appropriate governmental authority as de-
9 fined by section 926 or 927 of this chapter, shall issue a
10 certificate of registration for each handgun to be registered
11 under this section upon the approval of a properly completed
12 application duly filed by the person, and at the time, specified
13 in subsection (c). The application shall be approved, and
14 the handgun shall be registered, unless the applicant does not
15 hold a valid Federal Handgun Owner’s Identification Card
16 issued under section 924 of this chapter. The appropriate
17 governmental authority shall approve or deny the applica-
18 tion, and shall issue the certificate within ten days of its
19 receipt by such authority.

20 “(c) (1) Every person licensed under section 923 of
21 this chapter who sells, delivers, or otherwise transfers a
22 handgun to a person in whose possession the handgun must
23 be registered shall require from the purchaser the completed
24 application for the registration of the handgun and shall

1 ensure that the application is filed with the appropriate gov-
2 ernmental authority. When a person other than a licensed
3 dealer transfers a handgun, the transferee shall file an appli-
4 cation for its registration with the appropriate governmental
5 authority. In neither case shall the handgun be sold, de-
6 livered, or otherwise transferred until the transferee has
7 received his certificate of registration.

8 “(2) A person, other than a person licensed under
9 section 923 of this chapter, who owns or possesses a hand-
10 gun on the effective date of this section shall, unless he sooner
11 transfers the handgun, file an application for registration of
12 the handgun with the appropriate governmental authority,
13 within sixty days of such effective date.

14 “(d) An application for registration of a handgun shall
15 be in a form to be prescribed by the Secretary. The original
16 application shall be signed by the applicant and filed by
17 him with the appropriate governmental authority together
18 with a fee established by such authority, in such place as
19 such governmental authority by regulation may provide.
20 The application form shall contain sufficient copies to allow
21 the applicant to retain a duplicate of the original as tem-
22 porary evidence of registration, and to allow the transferor
23 to retain a duplicate of the original, which the transferor
24 shall retain as a permanent record.

1 “(e) An application for registration of a handgun shall
2 contain such information as the Secretary shall by regulation
3 prescribe, including:

4 “(1) the name, address, date and place of birth,
5 and social security or taxpayer identification number, of
6 the applicant;

7 “(2) the name of the manufacturer, the caliber or
8 gauge, barrel length, the model and the type, and the
9 serial number, of the handgun;

10 “(3) the date, and the place of the transfer, the
11 name and address of the person from whom the handgun
12 is to be obtained, the number of such person's certificate
13 of ownership of such handgun, if any, and, if such
14 person is licensed under section 923, his license number;
15 and

16 “(4) the number of the Federal Handgun Owner's
17 Identification Card issued to the applicant under section
18 924 of this chapter.

19 “(f) Any person who sells, delivers, or otherwise trans-
20 fers a handgun registered under this section, shall, within five
21 days of such sale, delivery, or other transfer, return to the
22 appropriate governmental authority his certificate of regis-
23 tration, noting on it such information as the Secretary shall
24 by regulation prescribe, including—

25 “(1) the name and address of the transferee;

1 “(2) the date of the sale, delivery, or other transfer;
2 and

3 “(3) the number of the transferee’s Federal Hand-
4 gun Owner’s Identification Card, or, if the sale delivery
5 or other transfer is to a person licensed under section
6 923, the number of the license issued under that
7 section.

8 “(g) (1) When a person not licensed under section 923
9 of this chapter, sells, delivers, or otherwise transfers a hand-
10 gun to a person licensed under section 923, the licensee shall
11 insure that the transferor returns the certificate of registration
12 to the appropriate governmental authority in the form re-
13 quired by subsection (g), and the licensee shall record the
14 handgun and the transaction in such manner as the Secretary
15 shall by regulation prescribe.

16 “(2) No person shall take and hold a handgun by way
17 of pledge or pawn.

18 “(h) Any person to whom a handgun registration
19 certificate has been issued by an appropriate governmental
20 authority under this section shall notify such governmental
21 authority of any change in such person’s name or address
22 within thirty days of the date of any such change in such
23 manner as the Secretary shall by regulation prescribe.
24 Registration of a handgun shall expire at the end of such

1 thirty-day period unless the registrant so notifies the appro-
2 priate governmental authority.

3 “(i) The executor or administrator of any estate
4 containing a registered handgun shall promptly notify the
5 appropriate governmental authority of the death of the regis-
6 tered owner, return the certificate of registration of the de-
7 ceased registered owner to the appropriate governmental
8 authority, and register the handgun in the name of the
9 estate according to the provisions of this section. The execu-
10 tor or administrator of an estate containing an unregis-
11 tered handgun shall promptly surrender such handgun to
12 the Secretary or his designee and shall not be subject to any
13 penalty or any prior failure to register such handgun.

14 “(j) Whoever owns or possesses a handgun required to
15 be registered under this chapter shall notify the appropriate
16 governmental authority of the loss, theft or destruction of
17 such handgun not later than forty-eight hours after the
18 discovery of such loss, theft or destruction, and if, after such
19 notice, such handgun is recovered, shall notify the appro-
20 priate governmental authority of the recovery.

21 **“§ 926. State handgun registration systems.**

22 “(a) (1) By the completion of the first general session
23 of the State legislature which commences after the date of
24 enactment of this chapter, but in any event no later than two

1 years after such date of enactment, a State, or a pool of
2 States, may establish an adequate handgun registration sys-
3 tem which at a minimum incorporates the standards set
4 forth in section 926 of this title.

5 “(2) The term ‘pool of States’ means two or more
6 States which are geographically contiguous and which the
7 Secretary has determined to be of sufficient similarity to jus-
8 tify the unification of their handgun registration systems in
9 the interests of easy and efficient administration.

10 “(b) An adequate State handgun registration system
11 shall also include the following standards:

12 “(1) the State agency compiling the information
13 required by section 925 and maintaining the records of
14 that information shall be subject to substantially the same
15 requirements and standards as set forth in section 552a
16 of title 5 of the United States Code and applicable to cer-
17 tain Federal records. The records shall not be exempted
18 from any of the requirements of section 552a of that title
19 under subsection (j) of that section;

20 “(2) the information shall not be disclosed or made
21 public in any manner not authorized by this chapter;

22 “(3) the administration and enforcement of the
23 State registration system shall prevent the migration of
24 handguns from that State to another State;

1 “(4) the system shall establish a procedure where-
2 by the records of handguns no longer in existence are
3 expunged; and

4 “(5) employees of the system shall not be persons
5 prohibited by this chapter or any provision of State or
6 local law from receiving a Federal Handgun Owner’s
7 Identification Card or from purchasing, possessing, or
8 registering firearms.

9 “(c) The Secretary shall determine which States have
10 enacted or adopted adequate registration systems for the
11 registration of handguns and shall publish in the Federal
12 Register the names of such States and, for the purposes of
13 this chapter, any such State shall be an appropriate govern-
14 mental authority with respect to the inhabitants thereof.

15 “(d) Whenever the Secretary has determined in accord-
16 ance with this section that there exists in a State an adequate
17 handgun registration system the provisions of section 927
18 shall not apply to persons covered by such handgun registra-
19 tion systems.

20 “(e) (1) Whenever the Secretary determines—

21 “(A) that a State agency will carry out the regis-
22 tration provisions of subsection (a) of this section in an
23 adequate manner; and

24 “(B) that the State agency has filed an application
25 in such form and containing such information as the

1 Secretary may reasonably require, for a grant under
2 this paragraph,
3 the Secretary is authorized to enter into an agreement with
4 that State agency under this paragraph to pay to the State
5 agency a grant equal to the cost of carrying out the handgun
6 registration program required by this subsection in that
7 State.

8 “(2) Each agreement entered into under this paragraph
9 shall contain provisions to assure that the State agency
10 will administer all the provisions of this subsection relating
11 to the registration of handguns within the State efficiently
12 and effectively, and shall provide for the expeditious forward-
13 ing by the State agency to the Secretary all information
14 required to be provided under this section and the regulations
15 made pursuant to it by individuals seeking to register a
16 handgun.

17 “(3) Payments under this section may be made in in-
18 stallments and in advance or by way of reimbursement, with
19 necessary adjustments on account of overpayments or under-
20 payments.

21 “(4) Whenever the Secretary, after reasonable notice
22 and opportunity for hearing to any agency, finds that there
23 has been a failure to comply substantially with any provision
24 of the agreement with that State entered into under this
25 paragraph, the Secretary shall notify the agency that further

1 payments will not be made under this paragraph until he is
2 satisfied that there is no longer any such failure to comply.
3 Until he is so satisfied, no further payments shall be made
4 under this paragraph. The Secretary is authorized to rescind
5 any agreement entered into under this paragraph whenever
6 he determines that the failure of the State agency concerned
7 has been substantial or repetitious or both.

8 “(5) There are authorized to be appropriated such
9 sums as may be necessary to enable the Secretary to make
10 enforcement grants under this subsection.

11 “(f) The Secretary may enter into agreements with
12 local and State government law enforcement agencies to
13 provide information on a periodic basis including at least
14 the following:

15 “(1) The number of handguns by caliber, make,
16 model, barrel length, frame length, and approximate age
17 which were confiscated by the agency.

18 “(2) The number of confiscated handguns which
19 were destroyed.

20 “(3) The number of trace requests to the Center
21 and the number of such requests which resulted in
22 successful traces.

23 “(4) The number of traces which led to the arrest,
24 indictment, or conviction of a person or which led to

1 information which made such arrest, indictment, or
2 conviction possible.

3 “(5) Comments on the relative use of tracing to
4 the agency.

5 **“§ 927. Federal handgun registration system.**

6 “(a) Any person not covered by a handgun registra-
7 tion system established under section 926 (a) shall be cov-
8 ered by a Federal handgun registration system established
9 by the Secretary in accordance with the standards set forth
10 in this chapter and the Secretary shall be the appropriate
11 governmental authority with respect to that person, for the
12 purposes of this chapter.

13 “(b) No handguns shall be sold by persons licensed
14 under section 923 of this chapter to persons not licensed
15 under such section 923 in a State, which, after two years
16 after the date of enactment of the Federal Firearms Act of
17 1975, has not enacted or adopted a State handgun registra-
18 tion system under section 925 of this chapter. If, after two
19 years after such date of enactment, a State has not enacted
20 or adopted such a State handgun registration system, the
21 Secretary shall not issue any licenses under section 923 of
22 this chapter and shall revoke all licenses previously issued
23 under that section, which licensed the retail sale of hand-
24 guns in such State.

1 “(c) The Secretary shall require each manufacturer to
2 submit the series of serial numbers for each type and model
3 of handgun which was manufactured by that manufacturer
4 since 1945. The Secretary shall use this information to de-
5 termine the degree of compliance with the registration re-
6 quirements of this chapter by comparing the series of serial
7 numbers submitted by manufacturers with the serial num-
8 bers of weapons registered under this chapter.

9 “(e) To the extent not otherwise prohibited by law
10 the Secretary may arrange for State and Federal handgun
11 tracing systems to share information and statistics concerning
12 firearms ownership, use, and misuse.

13 **“§ 928. Use and disclosure of information.**

14 “(a) Except with respect to a prosecution for false
15 statement or misrepresentation, no information submitted by
16 a person as required by section 924 or 925 (or any informa-
17 tion directly or indirectly derived from such information)
18 may be used against that person in any Federal, State,
19 or local proceeding with respect to a violation of law occur-
20 ring prior to or concurrently with the submission of the
21 information.

22 “(b) If any Federal, State, or local agency requests
23 the disclosure of information or records compiled under
24 section 924 or 925 of this chapter, the Secretary or other

1 appropriate governmental authority shall determine if the
2 requesting agency intends to use the information directly or
3 indirectly in any proceeding involving acts occurring prior
4 to or concurrently with the submission of the information. If
5 the information is requested in connection with any pro-
6 ceeding involving acts occurring prior to or concurrently
7 with the submission of the requested information, the Sec-
8 retary or the appropriate governmental authority shall not
9 release the information.

10 “(c) No information compiled under section 924 or
11 925 shall be disclosed or made public in any manner not
12 authorized by this chapter. Records compiled by the Secre-
13 tary under section 927 of this chapter shall not be exempt
14 under section 552a(j) of title 5 of the United States
15 Code from the other requirements of such section 552a.

16 **§ 929. Disposition of handguns to Secretary.**

17 “(a) The Secretary is authorized to pay just compen-
18 sation for handguns voluntarily relinquished to him.

19 “(b) A person who lawfully possessed a handgun prior
20 to the operative effect of any provision of this chapter, and
21 who becomes ineligible to possess such handgun by virtue
22 of such provision, shall receive just compensation for the
23 handgun upon its surrender to the Secretary.

24 “(c) The Secretary may promulgate regulations to

1 permit agencies of State and local governments to receive
2 handguns in assistance of the Secretary's performance of
3 the duties of this section.

4 “(d) Handguns received by the Secretary under this
5 section shall be destroyed.

6 **“§ 930. Periods of amnesty.**

7 “The Secretary may declare periods of amnesty for the
8 registration of handguns.”

9 **MANDATORY PENALTIES**

10 **SEC. 302.** (a) Section 924 of title 18 of the United
11 States Code, as amended by section 103 of this Act and as
12 redesignated as section 931, is further amended by—

13 (1) inserting the following after the word “chapter”
14 the first time it appears in subsection (a) : “other than
15 section 924 or 925”;

16 (2) by striking subsection (c) and inserting the
17 following new subsections in lieu thereof:

18 “(d) (1) Any person who knowingly violates any pro-
19 vision of section 924 or section 925 of this chapter shall be
20 subject to the following penalties:

21 “(A) for the first offense such person shall be fined
22 \$100;

23 “(B) for the second offense such person shall be
24 fined \$500 and imprisoned not less than thirty days nor
25 more than six months; and

1 “(C) for the third and subsequent offenses such
2 person shall be fined \$1,000 and imprisoned not less
3 than one year and not more than three years.

4 “(2) Notwithstanding any other provision of law, any
5 penalty imposed under paragraph (1) of this subsection shall
6 not be suspended nor shall probation be granted. No term of
7 imprisonment imposed under paragraph (1) shall run con-
8 currently with any term of imprisonment imposed for the
9 commission of any other offense. No parole nor good time
10 credit shall be granted any person serving any term of im-
11 prisonment imposed under paragraph (1).

12 “(3) Persons charged with first and second offenses un-
13 der paragraphs (1) and (2) may be tried and sentenced by
14 United States magistrates.

15 “(e) Whoever—

16 “(1) uses a firearm to commit any felony for which
17 he may be prosecuted in a court of the United States, or

18 “(2) carries a firearm during the commission of
19 any felony for which he may be prosecuted in a court
20 of the United States,

21 shall, in addition to the punishment provided for the com-
22 mission of such felony, be sentenced to a term of imprison-
23 ment of not less than one year nor more than ten years in
24 the case of the first offense, and to a term of imprisonment

1 of not less than two nor more than twenty-five years for a
2 second or subsequent offense. Notwithstanding any other pro-
3 vision of law, the court shall not suspend the sentence of such
4 person or give him a probationary sentence, nor shall the
5 term of imprisonment imposed under this subsection run
6 concurrently with any term of imprisonment imposed for the
7 commission of such felony.”.

8 (b) Subsection (e) of section 3575 of title 18 of the
9 United States Code is amended (1) by striking out the
10 period at the end of paragraph (3) thereof and inserting in
11 lieu thereof a semicolon and the word “or”, and (2) by add-
12 ing immediately after paragraph (3) thereof the following
13 new paragraph:

14 “(4) the defendant used a firearm (as defined in
15 section 921 (a) (3) of this title) to commit such felony,
16 or unlawfully carried a firearm (as defined in section 921
17 (a) (3) of this title) during the commission of such
18 felony.”.

19 (c) Section 3575 of title 18, United States Code, is
20 amended by adding at the end thereof the following new
21 subsection:

22 “(h) Nothing in this section shall be construed as
23 amending, altering, modifying, or otherwise affecting the

1 provisions of subsection (c) of section 931 of this title, or
2 as affecting the applicability of such provisions to any de-
3 fendant sentenced pursuant to this section.”.

4 **PREEMPTION OF CONFLICTING STATE LAW**

5 **SEC. 303.** Section 927 of title 18 of the United States
6 Code, as redesignated by section 301 of this Act, is further
7 amended—

8 (1) by inserting “(a)” immediately before the
9 first sentence after the section heading;

10 (2) by inserting “(other than subsection (b) of
11 this section)” immediately after the word “chapter”
12 the first time it appears; and

13 (3) by adding at the end the following new sub-
14 section:

15 “(b) Any provision of any State law which would pre-
16 vent the establishment or administration in such a State
17 of a State handgun registration system in accordance with
18 this chapter is preempted.”.

19 **AUTHORIZATION OF APPROPRIATIONS**

20 **SEC. 304.** There are authorized to be appropriated such
21 sums as may be necessary to carry out the amendments
22 made by this title.

1 **TECHNICAL AMENDMENT**

2 SEC. 305. The table of sections of chapter 44 of title 18
3 of the United States Code is amended to read as follows:

- "921. Definitions.
- "922. Unlawful acts.
- "923. Licensing.
- "924. Federal Handgun Owner's Identification Card.
- "925. National handgun registration standards.
- "926. State handgun registration systems.
- "927. Federal handgun registration system.
- "928. Use and disclosure of information.
- "929. Disposition of handguns to Secretary.
- "930. Periods of amnesty.
- "931. Penalties.
- "932. Exceptions; relief from disabilities.
- "933. Rules and regulations; evaluation procedures.
- "934. Effect on State law.
- "935. Separability.

4 **EFFECTIVE DATES**

5 SEC. 306. (a) Except as provided in subsection (b),
6 the provisions of chapter 44 of title 18 of the United States
7 Code, as amended by title II of this Act, shall take effect on
8 the date of enactment of this Act.

9 (b) (1) Section 924 (a) of title 18 of the United States
10 Code, as amended by section 301 of this Act, shall take effect
11 one hundred and eighty days after the date of enactment of
12 this Act.

13 (2) Section 925 of title 18 of the United States Code,
14 as amended by section 301 of this Act, shall take effect
15 either (A) on the effective date of a State registration sys-
16 tem enacted pursuant to section 926 of title 18, United
17 States Code, as amended by section 301 of this Act, or (B)

1 two years after the date of enactment of this Act, whichever
2 occurs first.

3 (3) Section 927 of title 18 of the United States Code,
4 as amended by section 301 of this Act, shall take effect two
5 years after the date of enactment of this Act.

6 TITLE IV—FEDERAL FIREARMS ENFORCEMENT
7 POLICY COORDINATING COUNCIL

8 SEC. 401. (a) There is hereby established the Federal
9 Firearms Enforcement Policy Coordinating Council (here-
10 inafter in this section referred to as the "Council").

11 (b) The members of the Council shall be the Attorney
12 General of the United States, the Secretary of the Treasury
13 of the United States, the Director of the Bureau of Alcohol,
14 Tobacco, and Firearms of the Department of the Treasury,
15 the Director of the Domestic Council, the Administrator of
16 the Law Enforcement Assistance Administration, or their re-
17 spective designees and representatives of such other agencies
18 as the President shall designate.

19 (c) The Secretary of the Treasury shall serve as Chair-
20 man of the Council. The Director of the Bureau of Alcohol,
21 Tobacco, and Firearms shall serve as Vice Chairman and
22 shall act as Chairman in the absence of the Chairman.

23 (d) The Council shall—

1 (1) coordinate the effective administration and en-
2 forcement of Federal firearms control laws;

3 (2) assist the States in the implementation, ad-
4 ministration, and enforcement of State firearms control
5 systems and laws;

6 (3) implement and coordinate research programs
7 to hasten the development of improved methods of fire-
8 arms detection;

9 (4) develop and implement programs to reduce
10 firearms misuse;

11 (5) develop improved methods of firearms trac-
12 ing, identification, ballistics, and detections; and

13 (6) develop an effective nonlethal weapon for use
14 by law enforcement agencies.

15 (e) The Council shall report at least annually to the
16 President and to the Congress concerning the development,
17 implementation, and coordination of Federal, State, and local
18 firearms control systems and programs.

19 (f) The Council shall promulgate procedures to insure
20 that the Regional Directors of the Bureau of Alcohol, To-
21 bacco, and Firearms, the United States attorneys from each
22 region, and the chief law enforcement officials from State and
23 local governments within each region meet at least twice
24 yearly to discuss the problems of handgun traffic and illicit

1 handgun misuse in each region, and to coordinate the en-
2 forcement of State and Federal laws regulating firearms, and
3 firearms use and misuse.

4 (g) The Council shall meet at least six times annually
5 and a description of its activities shall be included in the
6 annual report required by subsection (e).

7 (h) The Chairman shall, with the approval of the
8 Council, appoint an executive director of the Council who
9 shall be responsible for the administration of the activities
10 of the Council. The executive director may, with the ap-
11 proval of the Council, appoint such personnel as is considered
12 necessary to carry out the provisions of this title. The execu-
13 tive director shall be compensated at a rate not to exceed
14 the rate now or hereafter prescribed for GS-15 of the General
15 Schedule by section 5532 of title 5 of the United States Code.

16 (i) Members of the Council who are employed by the
17 Federal Government full time shall be reimbursed for travel,
18 subsistence, and other necessary expenses incurred by them
19 in carrying out the duties of the Council.

20 (j) The Council shall remain in existence for ten years
21 unless otherwise extended by Congress.

22 (k) There are authorized to be appropriated such sums
23 as may be necessary to carry out the provisions of this title.

1 TITLE V—DEVELOPMENT OF STATE FIREARMS
2 MISUSE PREVENTION SYSTEMS AND IMPLE-
3 MENTATION OF MODEL FIREARMS MISUSE
4 STATUTE

5 SEC. 501. The Administrator of the Law Enforcement
6 Assistance Administration is authorized to make grants to
7 State and local governments to assist them in planning, estab-
8 lishing, operating, coordinating, and evaluating projects di-
9 rectly, or through contracts with public and private agencies
10 for the development of, more effective education, training,
11 research, and prevention in the area of firearms misuse.

12 SEC. 502. In accordance with regulations promulgated
13 under this title, funds shall be allocated annually among the
14 States on the basis of the relative number of firearms offenses,
15 and the relative rates of such offenses per one hundred thous-
16 and people.

17 SEC. 503. In accordance with regulations promulgated
18 under this title, a portion of any allotment to any State under
19 this title shall be available to develop a State plan and to pay
20 that portion of the expenditures which are necessary for effi-
21 cient administration. Not more than 15 per centum of the
22 total annual allotment of such State shall be available for such
23 purposes. The State shall make available needed funds for
24 planning and administration to local governments on an
25 equitable basis.

1 SEC. 504. (a) In order to receive grants under this
2 part a State shall submit a plan for carrying out its purposes
3 consistent with the provisions of section 303 (a) (1), (3),
4 (5), (6), (8), (10), (11), (12), and (15) of title I of
5 the Omnibus Crime Control and Safe Streets Act of 1968.
6 In accordance with the regulations established under that
7 title, such plan shall—

8 (1) designate the State planning agency established
9 by the State under section 203 of such title I as the sole
10 agency for supervising the preparation and administra-
11 tion of the plan;

12 (2) contain satisfactory evidence that the State
13 agency designated in accordance with paragraph (1)
14 (hereafter referred to in this title as the "State plan-
15 ning agency") has or will have authority, by legislation
16 if necessary, to implement such plan in conformity with
17 this part;

18 (3) provide for an advisory group appointed by
19 the chief executive of the State, which advisory group
20 shall consist of no less than fifteen persons, and shall
21 consist of representatives of the courts, prosecutors, offi-
22 cials of the penal system, and private citizens interested
23 in firearms control;

24 (4) provide for the active consultation with and
25 participation of local governments in the development

1 of a State plan which adequately takes into account the
2 needs and requests of local governments;

3 (5) provide that the chief executive of the State
4 shall assign the responsibility for the administration
5 of the plan to that agency which can most effectively
6 carry out the provisions of this title, and shall pro-
7 vide for the supervision of the programs funded under
8 this part;

9 (6) set forth a detailed study of the States needs
10 for an effective, comprehensive, coordinated approach to
11 firearms misuse prevention, including a detailed item-
12 ized estimate of costs for the development and imple-
13 mentation of such programs;

14 (7) set forth a detailed plan whereby persons who
15 misuse firearms in violation of any law are identified and
16 swiftly processed through the State or local court
17 system; and

18 (8) set forth detailed programs whereby the State
19 plans to improve the performance of its court system
20 in the swift trial and swift punishment of persons
21 convicted of firearms misuse offenses.

22 (b) Such plan may at the discretion of the Adminis-
23 trator be incorporated into the plan specified in section 303

24 (a) of the Omnibus Crime Control and Safe Streets Act.

25 SEC. 505. The Administrator shall approve any State

1 plan which in his judgment meets the requirements of this
2 section.

3 SEC. 506. No payments shall be made to any State
4 which has not adopted in substance the model firearms mis-
5 use statute set forth in section 507 of this title.

6 SEC. 507. The model firearms misuse statute is as fol-
7 lows:

8 (a) Any person who—

9 (1) displays or otherwise uses a firearm during
10 the commission of a crime;

11 (2) displays or otherwise uses an imitation of a
12 firearm during the commission of a crime;

13 (3) possesses a firearm during the commission of
14 a crime; or

15 (4) transports or possesses a firearm or ammuni-
16 tion with intent that it be used, or with knowledge that
17 it may be used, to commit a felony;

18 shall be sentenced in accordance with subsections (b) and
19 (c).

20 (b) (1) A defendant convicted of an offense enumer-
21 ated in subsection (a) (1) or (a) (2) above, shall be im-
22 prisoned for a term not to exceed seven years.

23 (2) A defendant convicted of an offense enumerated in
24 subsection (a) (3) or (a) (4) shall be imprisoned for a
25 term not to exceed three years.

1 (3) If prior to the commission of an offense enumerated
2 in subsection (a) the defendant has been convicted of a Fed-
3 eral or State offense during the commission of which he dis-
4 played or otherwise used a dangerous weapon, the term of
5 imprisonment in subsection (b) (1) shall be for not less than
6 fifteen years, and the term in subsection (b) (2) shall be
7 for not less than seven years.

8 (c) Notwithstanding any other provision of law, the
9 court may not sentence the defendant to probation, or other-
10 wise suspend the sentence, but shall sentence him to a term
11 of imprisonment as follows:

12 (1) If the maximum term of imprisonment is fifteen
13 years, the defendant shall be imprisoned for a term of
14 not less than five years;

15 (2) if the maximum term of imprisonment is seven
16 years, the defendant shall be imprisoned for a term of
17 not less than three years; and

18 (3) if the maximum term of imprisonment is three
19 years, the defendant shall be sentenced to a term of not
20 less than one year.

21 (d) Notwithstanding any other provision of law, any
22 term of imprisonment imposed under this section shall run
23 consecutively with any other term of imprisonment imposed
24 upon the defendant.

1 SEC. 508. (a) Funds paid pursuant to this title to any
2 State, public or private agency, institution, or individual
3 (whether directly or through a State or local agency) may
4 be used for—

5 (1) planning, developing, or operating the pro-
6 gram designed to carry out the purposes of this title; and

7 (2) not more than 50 per centum of the cost of
8 the construction of innovative community-based facilities
9 for less than twenty persons which, in the judgment of
10 the Administrator, are necessary for carrying out the
11 purposes of this part.

12 (b) Except as provided by subsection (a), no funds
13 paid to any public or private agency, institution, or individual
14 under this part (whether directly or through a State or local
15 agency) may be used for construction.

16 SEC. 509. (a) In accordance with criteria established by
17 the Administrator, it is the policy of Congress that programs
18 funded under this title shall continue to receive financial
19 assistance providing that the yearly evaluation of such pro-
20 grams is satisfactory.

21 (b) At the discretion of the Administrator, when there
22 is no other way to fund an essential firearms misuse
23 prevention program not funded under this title, the State
24 may utilize 25 per centum of the formula grant funds avail-

1 able to it under this part to meet the non-Federal matching
2 share requirement for any other Federal firearms misuse
3 prevention program grant.

4 (c) Whenever the Administrator determines that it will
5 contribute to the purposes of this title, he may require the
6 recipient of any grant or contract to contribute money, facili-
7 ties, or services.

8 (d) Payments under this title, pursuant to a grant or
9 contract, may be made (after necessary adjustment, in the
10 case of grants, on account of previously made overpayments
11 or underpayments) in advance or by way or reimbursements,
12 in such installments and on such conditions as the Adminis-
13 trator may determine.

14 SEC. 510. (a) To carry out the purposes of this title
15 there is authorized to be appropriated such sums as may be
16 necessary for the fiscal years up to and including the fiscal
17 year ending September 30, 1979.

18 (b) In addition to the funds appropriated under this
19 section, the Administration shall maintain from other Law
20 Enforcement Assistance Administration appropriations other
21 than the appropriations for administration, at least the same
22 level of financial assistance for firearms misuse prevention
23 programs assisted by the Law Enforcement Assistance Ad-
24 ministration during fiscal year 1975.

25 SEC. 511. (a) No financial assistance for any program

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under this Act shall be provided unless the grant, contract, or agreement with respect to such program specifically provides that no recipient of funds will discriminate as provided in subsection (b) with respect to any such program.

(b) No person in the United States shall on the ground of race, creed, color, sex, or national origin be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this Act. The provisions of the preceding sentence shall be enforced in accordance with section 603 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

TITLE VI

AMENDMENTS TO THE INTERNAL REVENUE CODE

SEC. 601. (a) Section 4181 of chapter 32 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended—

(1) by inserting "(a) ~~IN GENERAL.~~—" immediately before "There"; and

1 (2) by adding at the end thereof the following new
2 subsection:

3 “(b) **ADDITIONAL TAX ON PISTOLS AND REVOLVERS.**—

4 In addition to the tax imposed under subsection (a), there
5 is hereby imposed a tax of \$25 upon the sale of any pistol
6 or revolver by the manufacturer, producer, or importer
7 thereof.”.

8 (b) (1) Subsection (a) of section 4226 of such Code
9 (relating to floor stocks taxes) is amended to read as follows:

10 “(a) **TAX ON PISTOLS AND REVOLVERS.**—

11 “(1) **IN GENERAL.**—There is hereby imposed a
12 floor stocks tax of \$25 on any pistol or revolver which
13 was sold by the manufacturer, producer, or importer, and
14 which date is held by a dealer for sale on the floor stocks.

15 “(2) **FLOOR STOCKS DATE DEFINED.**—For pur-
16 poses of this section, the term ‘floor stocks date’ means
17 the 180th day after the date of the enactment of the
18 Federal Firearms Act of 1975.”.

19 (2) Subsection (d) of such section 4226 is amended to
20 read as follows:

21 “(d) **DUE DATE OF TAX.**—The tax imposed by subsec-
22 tion (a) (1) shall be paid at such time, not earlier than 90
23 days after the floor stocks date, as may be prescribed by the
24 Secretary or his delegate.”.

25 (c) (1) Section 4182 of such Code (relating to exemp-

1 tions) is amended by striking out "tax imposed" and insert-
2 ing in lieu thereof "taxes imposed".

3 (2) Section 5831 of such Code (a cross reference) is
4 amended by striking out "excise tax" and inserting in lieu
5 thereof "excise taxes".

6 (d) The amendments made by this section shall apply
7 with respect to transfers made on or after the one hundred
8 and eightieth day after the date of the enactment of this Act.

94TH CONGRESS
1ST SESSION

H. R. 10442

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 1975

Mr. HUGHES introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18 of the United States Code to reduce the level of violent crime in the United States by imposing greater restrictions upon commerce in handguns, to establish a program of assistance to States for handgun accountability programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Handgun Accountability
4 Act of 1975".

5 TITLE I—CONGRESSIONAL FINDINGS

6 SEC. 101. The Congress finds and declares—

7 (1) that the level of violent crime in the United
8 States has been increasing at an uncontrollable rate;

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1 (2) that violent crime substantially lowers the qual-
2 ity of life in America, and threatens the peace and do-
3 mestic tranquillity of the Nation, and the seenrity and
4 general welfare of citizens of the United States;

5 (3) that the handgun has increasingly become the
6 principal instrument of violent crime;

7 (4) that there now exists substantial illicit inter-
8 state commerce in handguns which inclndes traffic from
9 jurisdictions without stringent regulation of handguns
10 to jurisdictions with more stringent regulation of hand-
11 gun acquisition and possession;

12 (5) that handgun aquisition and possession and
13 unlawful use directly affects and burdens commerece
14 among the several States;

15 (6) that a substantial portion of the handguns af-
16 fecting commerce are readily accessible due to the low
17 cost of such handgnns, and are easily concealed, mann-
18 ufactured from inferior materials, lack proper safety fea-
19 tures, and have no legitimate sporting or other value;

20 (7) that throughout the United States convicted
21 felons, persons suffering from mental disease, and other
22 persons prohibited by law from acquiring handguns have
23 virtually unrestricted access to, and possession of, hand-
24 guns;

25 (8) that due to the inherently dangerous nature of

1 firearms and the natural superiority of a firearm as an
2 instrument of crime and violence, and the relative ease
3 with which firearms may be applied to such unlawful
4 purposes, persons licensed under Federal law to import,
5 manufacture, or deal in firearms ought to be bona fide
6 importers, manufacturers, or dealers, operating within
7 Federal, State and local laws, and subject to close super-
8 vision and control;

9 (9) that pawnbroker's have been shown to be the
10 source of large numbers of handguns used in crime and
11 should not be permitted to deal in such firearms;

12 (10) that acquisition and possession of handguns by
13 felons and by other persons barred from possession of
14 handguns by Federal, State, or local law requires an
15 increased obligation on dealers in firearms and on law
16 enforcement agencies to assure that there is no acqui-
17 sition, possession, or use of a handgun by a person who
18 may not lawfully possess it;

19 (11) that there is a need at all levels of govern-
20 ment to recognize the threat posed by the criminal use
21 of firearms, and to commence a serious and coordinated
22 effort to eliminate the unlawful use of firearms; and

23 (12) that the State and local governments need
24 financial assistance from the Federal Government to
25 develop and maintain programs to prevent firearms mis-

1 use, and to provide for greater individual accountability
2 for the misuse of firearms.

3 TITLE II—AMENDMENTS TO GUN CONTROL

4 ACT OF 1968

5 DEFINITION OF INTERSTATE COMMERCE

6 SEC. 201. Section 921 (a) (2) of title 18 of the United
7 States Code is amended by striking out “, but such term does
8 not include commerce between places within the same State,
9 but through any place outside of that State”.

10 REVISION OF DEALER QUALIFICATIONS

11 SEC. 202. (a) Section 921 (a) of title 18 of the United
12 States Code is amended by striking out paragraphs (11) and
13 (12) and inserting in lieu thereof the following:

14 “(11) The term ‘dealer’ means any person who is
15 (A) engaged in the business of ammunition retailer, (B)
16 engaged in the business of gunsmith, or (C) engaged in the
17 business of firearms dealer. The term ‘licensed dealer’ means
18 any dealer who is licensed under the provisions of this
19 chapter.

20 “(12) The term ‘ammunition retailer’ means any per-
21 son who is not otherwise a dealer and who is engaged in the
22 business of selling ammunition (other than ammunition for
23 destructive devices) at retail.

24 “(13) The term ‘gunsmith’ means any person who is
25 not otherwise a dealer and who is engaged in the business of

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1 repairing firearms or making or fitting special barrels, stocks
2 or trigger mechanisms to firearms.

3 “(14) The term ‘firearms dealer’ means any person
4 who is engaged in the business of selling firearms or ammu-
5 nition at wholesale or retail.

6 “(15) The term ‘pawnbroker’ means any person whose
7 business or occupation includes the taking or receiving, by
8 way of pledge or pawn, of rifles or shotguns as security for
9 the payment or repayment of money.”.

10 (b) Such section 921 (a) is further amended by redesign-
11 ating paragraphs (13) through (20) as (16) through
12 (23) respectively.

13 (c) Section 922 (a) (1) of title 18 of the United States
14 Code is amended by inserting “repairing,” immediately
15 after “manufacturing,”

16 (d) Section 923 (a) of title 18 of the United States Code
17 is amended—

18 (1) by inserting immediately after the sentence be-
19 ginning “The application shall be in such form and con-
20 tain such information” the following: “No application
21 shall be accepted from a pawnbroker to deal in firearms
22 other than shotguns or rifles.”;

23 (2) by striking out paragraphs (1) (B) and (1)
24 (C) and inserting in lieu thereof the following:

1 “(B) of firearms other than destructive devices
2 or handguns, a fee of \$250 per year;

3 “(C) of firearms, including handguns, but not
4 including destructive devices, a fee of \$500 per
5 year; or

6 “(D) of ammunition for firearms other than
7 ammunition for destructive devices, a fee of \$250
8 per year.”;

9 (3) by striking out “or” at the end of paragraph
10 (2) (A) ;

11 (4) by striking out paragraph (2) (B) and insert-
12 ing in lieu thereof the following:

13 “(B) of firearms other than destructive devices
14 or handguns, or of ammunition for firearms other
15 than destructive devices, a fee of \$250 per year; or

16 “(C) of firearms, including handguns, but not
17 including destructive devices, a fee of \$500 per
18 year.”;

19 (5) by amending paragraph (3) (B) to read as
20 follows:

21 “(B) who is a pawnbroker dealing in rifles
22 and shotguns, a fee of \$500 per year;” and

23 (6) by striking out paragraph (3) (C), and insert-
24 ing in lieu thereof the following:

25 “(C) who is not a dealer in destructive devices

1 or handguns, a gunsmith, or an ammunition retailer
2 in other than ammunition for destructive devices, a
3 fee of \$100 per year;

4 “(D) in firearms including handguns, but who
5 is not a gunsmith or a dealer in destructive devices,
6 \$200 per year;

7 “(E) who is a gunsmith, a fee of \$50 per year;
8 or

9 “(F) who is an ammunition retailer in other
10 than ammunition for destructive devices, a fee of
11 \$25 per year.”.

12 (e) Section 923 (c) of title 18 of the United States
13 Code is amended—

14 (1) by inserting “(1)” immediately after “(c)”;
15 and

16 (2) by adding at the end the following new para-
17 graph:

18 “(2) No application to renew the license of a manu-
19 facturer or importer shall be approved until the Secre-
20 tary has inspected the premises for which the license is
21 sought and reviewed the records of the applicant and
22 determined that the applicant for renewal is in compli-
23 ance with the requirements of this chapter.”.

24 (f) Section 923 (d) (1) of title 18 of the United States
25 Code is amended—

1 (1) by inserting "the Secretary finds that" imme-
2 diately after "shall be approved if";

3 (2) by amending subparagraph (B) to read as
4 follows:

5 “(B) the applicant (including, in the case of
6 a corporation, partnership, or association, any in-
7 dividual possessing, directly or indirectly, the power
8 to direct or cause the direction of the management
9 and policies of the corporation, partnership, or
10 association) —

11 “(i) is not prohibited from possessing,
12 transporting, shipping, or receiving firearms or
13 ammunition under section 922 (g) of this
14 chapter;

15 “(ii) is not prohibited by State or local
16 law of his place of business from conducting
17 the business of transporting, shipping, receiv-
18 ing, selling, transferring, owning, or possessing
19 the firearms or ammunition to which the license
20 would apply; and

21 “(iii) is, by reason of his business expe-
22 rience, financial standing, or trade connections,
23 likely to commence the business for which the
24 license is applied within a reasonable period of
25 time and to maintain such business in con-

1 conformity with Federal, State, and local law;”;

2 (3) by striking out “and” at the end of subpara-
3 graph (D) ;

4 (4) by striking out the period at the end of sub-
5 paragraph (E) and inserting a semicolon in lieu thereof;

6 (5) by inserting immediately after subparagraph
7 (E) the following:

8 “(F) the applicant is familiar with the appropriate
9 requirements, as determined by the Secretary, of Fed-
10 eral, State, and local law concerning the importation,
11 manufacture, sale, distribution, and repair of firearms;
12 and

13 “(G) the applicant has on the premises for the
14 licensed activity adequate security devices and personnel
15 to maintain the security of firearms, firearms parts, or
16 ammunition stored on such premises.”.

17 (g) Section 923 (d) (2) of title 18 of the United States
18 Code is amended by striking out in the first sentence thereof
19 “forty-five” and inserting in lieu thereof “ninety”.

20 (h) Section 923 (e) and (f) of title 18 of the United
21 States Code are amended to read as follows:

22 “(e) The Secretary may suspend or revoke any license
23 issued under this section, or may subject the licensee to a
24 civil penalty of up to \$10,000 per violation, if the holder
25 of such license has violated any provision of this chapter

1 or any rule or regulation prescribed by the Secretary under
2 this chapter. The Secretary may at any time compromise,
3 mitigate, or remit the liability with respect to such violation.
4 The Secretary's action under this subsection may be reviewed
5 only as provided in subsection (f) of this section.

6 “(f) (1) Any person whose application for a license is
7 denied and any holder of a license which is suspended or
8 revoked or who is assessed a civil penalty shall receive a
9 written notice from the Secretary stating specifically the
10 grounds upon which the application was denied or upon
11 which the license was suspended or revoked or the civil
12 penalty assessed. Any notice of a suspension or revocation
13 of a license shall be given to the holder of such license before
14 the effective date of the suspension or revocation.

15 “(2) If the Secretary denies an application for, or
16 suspends or revokes a license, or assesses a civil penalty, he
17 shall, upon request by the aggrieved party, promptly hold
18 a hearing to review his denial, suspension, revocation, or
19 assessment. In the case of a suspension or revocation of a
20 license, the Secretary shall upon the request of the holder
21 of the license stay the effective date of the suspension or
22 revocation. A hearing held under this paragraph shall be
23 held at a location convenient to the aggrieved party.

24 “(3) If after a hearing held under paragraph (2) the
25 Secretary decides not to reverse his decision to deny an appli-

1 cation or suspend or revoke a license or assess a civil penalty,
2 the Secretary shall give notice of his decision to the aggrieved
3 party. The aggrieved party may at any time within sixty
4 days after the date notice was given under this paragraph
5 file a petition with the United States district court for the
6 district in which he resides or has his principal place of busi-
7 ness for a judicial review of such denial, suspension, revoca-
8 tion, or assessment. In a proceeding conducted under this
9 subsection, the court may consider any evidence submitted
10 by the parties to the proceeding. If the court decides that the
11 Secretary was not authorized to deny the application or to
12 suspend or revoke the license or to assess the civil penalty,
13 the court shall order the Secretary to take such action as may
14 be necessary to comply with the judgment of the court.”;

15 RECORDKEEPING BY LICENSEES; SUBMISSION OF QUAR-
16 TERLY REPORTS; REPORTS OF LOSS OR THEFT

17 SEC. 203. Section 923 (g) of title 18 of the United
18 States Code is amended—

19 (1) by inserting “(1)” immediately after “(g)”;

20 (2) by redesignating clauses (1) and (2) as (A)
21 and (B) respectively; and

22 (3) by adding at the end the following new para-
23 graphs:

24 “(2) Every person licensed under this section shall
25 make quarterly reports to the Secretary which shall include

1 the following information: (A) the number, types, calibers,
2 models, and serial numbers of firearms imported or manufac-
3 tured, or sold, delivered or otherwise transferred to other per-
4 sons licensed under this section; (B) the States and localities
5 in which the firearms and ammunition were imported, manu-
6 factured, sold, delivered, or otherwise transferred; (C) the
7 names and addresses of those governmental entities, persons
8 licensed under this section to whom firearms were sold,
9 delivered, or otherwise transferred; (D) the names and
10 addresses of each carrier to whom firearms, firearms parts,
11 or ammunition were entrusted for shipment; and (E) every
12 factory, warehouse, or other facility in which he manu-
13 factured, received, distributed, stored, or otherwise held any
14 firearms, firearms parts, or ammunition. These reports shall
15 not be made public except as authorized by this chapter.

16 “(3) The Secretary shall compile the information con-
17 tained in the reports required by paragraph (2) above
18 and submit to Congress annual reports containing summaries
19 of such information describing the pattern of firearms manu-
20 facture, traffic, and sale in the United States. The annual
21 reports to Congress shall also provide information on the
22 success of the Federal Government in aiding State and
23 local efforts to curb the illicit traffic in handguns, and on
24 the effectiveness, administration, and estimated compliance
25 with the provisions of this chapter.

1 “(4) The Secretary shall maintain an indexed list of
2 all licenses issued under this section, according to license
3 classification. Such list shall also contain information com-
4 piled on a basis no less frequent than quarterly on the
5 number, models, types caliber, barrel length, and manu-
6 facturer of handguns produced or sold by each licensee. The
7 list and the information shall not be made public except as
8 permitted by this chapter.

9 “(5) The Secretary shall compile and maintain with
10 current information a list by State, of every city or county
11 within its jurisdiction which prohibits the sale of handguns
12 or other firearms, requires a license or permit to purchase a
13 handgun or other firearm, a waiting period between purchase
14 and receipt, or requires residents to register such weapons
15 upon purchase. At least twice each year this list shall be
16 distributed to all licensed firearms dealers.

17 “(6) Every person licensed under this section shall
18 report to the Secretary the loss or theft of any firearm or
19 ammunition in the custody, possession, or control of such
20 person not later than forty-eight hours after the discovery of
21 such loss or theft.”.

22 PROHIBITION OF CERTAIN HANDGUNS; AMENDMENTS TO
23 UNLAWFUL ACTS SECTION; RELIEF FROM DISABILITIES

24 SEC. 204. (a) Section 921 (a) (3) of title 18 of the
25 United States Code is amended by striking out the semicolon

1 at the end of clause (B) and inserting in lieu thereof the fol-
2 lowing: “, or any combination of parts from which any such
3 weapon can be assembled;”.

4 (b) Section 921 (a) of title 18 of the United States
5 Code, as amended by section 202 of this Act, is further
6 amended by adding at the end thereof the following new
7 paragraphs:

8 “(24) The term ‘handgun’ means any firearm which
9 has a short stock and which is designed to be fired by the
10 use of a single hand.

11 “(25) The term ‘pistol’ means a handgun having a
12 chamber or chambers as an integral part or parts of, or per-
13 manently aligned with, the bore or bores.

14 “(26) The term ‘revolver’ means a handgun having
15 a breechloading chambered cylinder so arranged that the
16 cocking of the hammer or movement of the trigger rotates
17 the cylinder and brings the next cartridge in line with the
18 barrel for firing.

19 “(27) The term ‘handgun model’ means a handgun of
20 a particular design, specification, and designation.

21 “(28) The term ‘prohibited handgun’ means any hand-
22 gun which is not a handgun model which the Secretary
23 of the Treasury has evaluated through tests of representa-
24 tive samples and found that such handgun model is particu-
25 larly suitable for sporting purposes and that—

1 “(A) in the case of a pistol, the handgun model—

2 “(1) has a positive manually operated safety
3 device,

4 “(2) has a combined length and height of not
5 less than ten inches with the height (measured
6 from the top of the weapon, excluding sights, at a
7 right-angle measurement to the line of the bore,
8 to the bottom of the frame, excluding magazine
9 extensions or releases) being at least four inches
10 and the length (measured from the muzzle, parallel
11 to the line of the bore, to the back of the part of
12 the weapon that is furthest to the rear of the weap-
13 on) being at least six inches, and

14 “(3) attains a total of at least seventy-five
15 points under the following criteria:

16 “(i) OVERALL LENGTH.—one point for
17 each one-fourth inch over six inches;

18 “(ii) FRAME CONSTRUCTION.—(I) fifteen
19 points if investment cast steel or forged steel and
20 (II) twenty points if investment cast HTS
21 alloy or forged HTS alloy;

22 “(iii) PISTOL WEIGHT.—one point for
23 each ounce, with the pistol unloaded and the
24 magazine in place;

1 “(iv) CALIBER.—(I) zero points if the
2 pistol accepts only .22 caliber short or .25
3 caliber automatic ammunition, (II) three
4 points if the pistol accepts either .22 caliber
5 long rifle ammunition or any ammunition with-
6 in the range delimited by 7.65 millimeter and
7 .380 caliber automatic, (III) 10 points if the
8 pistol accepts 9 millimeter parabellum ammu-
9 nition or over, and (IV) in the case of am-
10 munition not falling within one of the classes
11 enumerated in subclauses (I) through (III),
12 such number of points not greater than ten
13 (following the classification schedule of this
14 clause (iv) as nearly as is practicable) as the
15 Secretary shall determine appropriate to the
16 suitability for sporting purposes of handgun
17 models designed for such ammunition;

18 “(v) SAFETY FEATURES.—(I) five points
19 if the pistol has a locked breech mechanism,
20 (II) five points if the pistol has a loaded cham-
21 ber indicator, (III) three points if the pistol
22 has a grip safety, (IV) five points if the pistol
23 has a magazine safety, (V) ten points if the
24 pistol has a firing pin block or lock; and

25 “(vi) MISCELLANEOUS EQUIPMENT.—

1 (I) two points if the pistol has an external
2 hammer, (II) ten points if the pistol has a
3 double action firing mechanism, (III) five
4 points if the pistol has a drift adjustable target
5 sight, (IV) ten points if the pistol has a click
6 adjustable target sight, (V) five points if the
7 pistol has target grips, and (VI) two points
8 if the pistol has a target trigger;

9 “(B) in the case of a revolver, the handgun model—

10 “(1) has an overall frame (with conventional
11 grips) length of four and one-half inches (measured
12 from the end of the frame nearest the muzzle,
13 parallel to the line of the bore to the back of the
14 part of the weapon that is furthest to the rear of
15 the weapon) ;

16 “(2) has a barrel length (measured from the
17 muzzle to the cylinder face) of at least four inches;
18 and

19 “(3) has a safety device which (i) auto-
20 matically in the case of a double action firing mech-
21 anism or (ii) by manual operation in the case of
22 a single action firing mechanism, causes the ham-
23 mer to retract to a point where the firing pin does
24 not rest upon the primer of the cartridge, and which,
25 when activated, is capable of withstanding the im-

1 pact of a weight, equal to the weight of the revolver,
2 dropped a total of five times from a height of thirty-
3 six inches above the rear of the hammer spur onto
4 the rear of the hammer spur with the revolver rest-
5 ing in a position such that the line of the barrel is
6 perpendicular to the plane of the horizon, and

7 “(4) attains a total of at least forty-five points
8 under the following criteria:

9 “(i) BARREL LENGTH.—one-half point for
10 each one-fourth inch that the barrel is longer
11 than four inches;

12 “(ii) FRAME CONSTRUCTION.—(I) fifteen
13 points if investment cast steel or forged steel,
14 (II) twenty points if investment cast high-
15 tensile strength alloy or forged high-tensile
16 strength alloy;

17 “(iii) REVOLVER WEIGHT.—one point for
18 each ounce with the revolver unloaded;

19 “(iv) CALIBER.—(I) zero points if the
20 revolver accepts only .22 caliber short or .25
21 caliber ACP, (II) three points if the revolver
22 accepts .22 caliber long rifle or ammunition in
23 the range between .30 caliber and .38 S&W,
24 (III) four points if the revolver accepts .38
25 caliber special ammunition, (IV) five points

1 if the revolver accepts .357 magnum ammuni-
2 tion or ammunition of an equivalent or greater
3 projectile size or power, and (V) in the case of
4 ammunition not falling within one of the classes
5 enumerated in subclauses (I) through (IV),
6 such number of points not greater than five
7 (following the classification schedule of clause
8 (iv) as nearly as practicable) as the Secretary
9 shall determine appropriate to the suitability
10 for sporting purposes of handgun models de-
11 signed for such ammunition; and

12 “(v) MISCELLANEOUS EQUIPMENT.—(I)
13 five points if the revolver has either drift or
14 click adjustable target sights, (II) five points
15 if the revolver has target grips, and (III) five
16 points if the revolver has a target hammer and
17 a target trigger.”

18 (c) Section 922 of title 18 of the United States Code,
19 as amended by section 202 of this Act, is further amended—

20 (1) by inserting immediately after “replacement
21 firearm” in subsection (a) (2) (A) the following: “,
22 other than a prohibited handgun,”;

23 (2) by inserting immediately after “mailing a fire-
24 arm” in subsection (a) (2) (A) the following: “, other
25 than a prohibited handgun,”;

(3) by striking out "resides in any State other than that in which the transferor resides (or other than that" in subsection (a) (5) and inserting in lieu thereof the following: "does not reside in the State in which the transferor resides (or does not reside in the State";

(4) by inserting immediately after "rental of a firearm" in subsection (a) (5) the following: ", except a prohibited handgun,";

(5) by inserting immediately after "loan or rental of a firearm" in subsection (b) (3) (B) the following: ", other than a prohibited handgun,";

(6) by inserting immediately after "may sell a firearm" in subsection (c) the following: ", other than a handgun,";

(7) by striking out ", in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle," in subsection (c) (1) ;

(8) by adding at the end thereof the following new subsections:

"(1) (1) It shall be unlawful for any person licensed under section 923 of this chapter to import, manufacture, assemble, sell, or transfer any prohibited handgun, other than a curio or relic, into or in the United States.

"(2) It shall be unlawful for any person other than a

1 person licensed under section 923 of this chapter to sell or
2 transfer any prohibited handgun, other than a curio or relic,
3 in the United States knowing or having reasonable cause to
4 believe that it is a prohibited handgun.

5 “(3) This subsection shall not apply to the importa-
6 tion, manufacture, sale, delivery, or other transfer of any
7 handgun intended for use in testing, analysis by any re-
8 search organization designated by the Secretary. However,
9 any prohibited handgun imported, manufactured, sold, de-
10 livered, or otherwise transferred pursuant to the exceptions
11 of this paragraph or of section 929 shall not thereafter be
12 sold, delivered, or otherwise transferred to any person.

13 “(4) It shall be unlawful for any person to modify
14 a handgun of a handgun model previously approved by the
15 Secretary for manufacture, assembly, importation, sale, or
16 transfer, if as a result of such modification the handgun no
17 longer meets the standards for approval set forth in section
18 921 (a) (28).”.

19 (d) Section 925 of title 18 of the United States Code
20 is amended:

21 (1) by inserting “other than a prohibited hand-
22 gun” immediately after “firearms” in subsection (a)

23 (2);

24 (2) by inserting “other than a prohibited hand-

1 gun" immediately after "may receive a firearm" in sub-
2 section (a) (3) ;

3 (3) by inserting "other than a prohibited hand-
4 gun" immediately after "of any firearm" in subsection
5 (a) (4) ;

6 (4) by inserting "or of a State or local law which
7 related to the importation, manufacture, sale or transfer,
8 of a firearm" immediately after "National Firearms Act"
9 in subsection (c) ;

10 (5) by redesignating subsection (c) , as amended,
11 as (c) (1) , and adding a new paragraph immediately
12 thereafter as follows:

13 "(2) Any person who, having been adjudicated as
14 mentally incompetent, or who, having been committed to
15 a mental institution, subsequently has been adjudicated by
16 a court or other lawful authority to have been restored to
17 mental competency, if such court or other lawful authority
18 specifically finds that the person is no longer suffering from
19 a mental disorder and that the possession of a firearm by
20 the person would not pose a danger to the person or to the
21 person of another, shall be relieved from the disabilities im-
22 posed by this chapter with respect to the acquisition, re-
23 ceipt, transfer, shipment, or possession of fir
24 because of such adjudication or commitment."

25 (6) in subsection (d) (3) by stri

1 generally recognized" and all that follows down through
2 "surplus military firearms; or" and inserting in lieu
3 thereof the following: "is not a surplus military fire-
4 arm or a prohibited handgun, and, if ammunition, is
5 generally recognized as particularly suitable for sport-
6 ing purpose; or".

7 (e) Section 926 of title 18 of the United States Code
8 is amended—

9 (1) by inserting "(a)" immediately before the first
10 sentence after the section heading, and by adding at the
11 end of such section the following new subsections:

12 "(b) Any person may submit to the Secretary repre-
13 sentative samples of a handgun model for evaluation under
14 the standards of section 921 (a) (28). The Secretary shall
15 give written notification of the results of evaluation con-
16 ducted under section 921 (a) (28) to the person submitting
17 samples of a handgun model for such evaluation and testing.
18 If the Secretary finds that any handgun model fails to meet
19 the standards for approval, the Secretary's notification shall
20 state specifically the reasons for such finding. Any such noti-
21 fication of the results of evaluation shall be published in
22 the Federal Register. At least twice each year the Seere-
23 tary shall compile a list of all handgun models which are
24 then approved for sale or delivery under this chapter, and
25 of all prohibited handguns, which list shall be published in

1 the Federal Register and furnished annually to each licensee
2 under this chapter.

3 “(a) Any person submitting to the Secretary for eval-
4 uation a handgun model which fails to meet the relevant
5 standards shall have thirty days from receipt of notification
6 of such failure within which to submit in writing specific
7 objections to the results of that evaluation and a request for
8 reevaluating such model, together with justification therefor.
9 Upon receipt of such a request, if the Secretary determines
10 sufficient justification for reevaluation exists, he shall
11 promptly arrange for reevaluation and thereafter notify the
12 aggrieved party of the results. Should he determine that re-
13 testing is not warranted, the Secretary shall promptly notify
14 the aggrieved party as to such determination.

15 “(d) Any officer or employee of the Bureau of Alcohol,
16 Tobacco and Firearms who is designated by the Secretary
17 to carry out the provisions of this chapter is authorized to
18 administer such oaths or affirmations as may be necessary for
19 the enforcement of this chapter and any other provision of
20 law or regulation administered by the Bureau.

21 “(e) (1) Every person who intends to produce any
22 prohibited handgun for sale as authorized under section 922
23 (n) (3) or 929 shall first notify the Secretary of such inten-
24 tion prior to the commencement of such manufacture, and
25 prior to each such sale and shall provide the Secretary with

1 such information as the Secretary may by regulation pre-
2 scribe, including the number of prohibited handguns to be
3 produced; whether such weapons are being made pursuant
4 to an existing order; and the names of the purchasers of such
5 weapons.

6 “(2) The Secretary shall have the authority to dis-
7 approve such sale of any prohibited handgun if he determines
8 that the handguns are not intended for immediate distribu-
9 tion, that the sale is pursuant to an existing order or that their
10 sale would be in violation of any provision of this chapter or
11 any regulation issued thereunder.”; and

12 (2) by striking out the period at the end of the
13 section heading and inserting “; **evaluation and control**
14 **of prohibited handguns.**”.

15 CARRIERS REGULATION

16 SEC. 205. Section 922 of title 18 of the United States
17 Code, as amended by sections 202 and 204 of this Act, is
18 further amended—

19 (1) by inserting “(1)” immediately after “(f)”
20 in subsection (f); and

21 (2) by adding at the end of subsection (f) the
22 following new paragraphs:

23 “(2) It shall be unlawful for any person to ship or
24 transport any firearm or ammunition in interstate or foreign
25 commerce if such shipment or transportation is in violation of

1 a State law in a place to which or through which the firearm
2 was shipped or transported or of a published ordinance
3 applicable at the place of sale, delivery, or other disposition.

4 “(3) It shall be unlawful for any common or contract
5 carrier to transport any firearm or ammunition in a manner
6 not in conformity with regulations which the Secretary shall
7 promulgate to insure safe and secure transportation of the
8 firearms or ammunition.

9 “(4) Each person engaged in the business of trans-
10 porting firearms or ammunition shall register with the Sec-
11 retary their names, the chief executive officer, address, fleet
12 size, license plate numbers or other vehicular identification
13 numbers, and the States in which it conducts business within
14 sixty days after the date of the enactment of this Act and
15 thereafter on June 1 of each year. Each carrier shall re-
16 port to the Secretary the loss or theft of any firearm or am-
17 munition in the custody, possession, or control of such carrier
18 not later than forty-eight hours after the discovery of such
19 loss or theft. Such report shall be made on forms prescribed
20 by the Secretary which shall contain the serial number,
21 manufacturer, barrel length, frame length, caliber, model,
22 type, and the consignee and his address. Manufacturers and
23 wholesale dealers shall provide the carrier with a list of serial
24 numbers of all guns shipped. The carrier shall maintain a
25 copy of such list on his premises. The carrier shall record the

1 license number and other description of the vehicle carrying
2 such weapons. In addition, the driver and other employees
3 accompanying the shipment as well as the names of persons
4 moving firearms or having custody of them shall be identified.

5 MISCELLANEOUS AMENDMENTS TO UNLAWFUL ACTS

6 SECTION

7 SEC. 206. (a) Section 922 of title 18 of the United
8 States Code, as amended by sections 202, 204, and 205 of
9 the Act, is further amended—

10 (1) by striking out “drug (as defined in section 201
11 (v) of the Federal Food, Drug, and Cosmetic Act)”
12 in subsection (g) (3) and inserting in lieu thereof
13 “substance”;

14 (2) by striking out “(as defined in section 4731 (a)
15 of the Internal Revenue Code of 1954); or” in sub-
16 section (g) (3) and inserting in lieu thereof “as those
17 terms are defined in section 102 of the Controlled
18 Substances Act (21 U.S.C. 802) ;”;

19 (3) by amending subsection (g) (4) to read as
20 follows:

21 “(4) who has been adjudicated as mentally incom-
22 petent or has been committed to a mental institution;
23 or”;

24 (4) by striking out “to ship or transport any firearm

1 or ammunition in interstate or foreign commerce" in
2 subsection (g) and inserting in lieu thereof:

3 " (5) who, being an alien, is illegally or unlawfully
4 in the United States ;

5 to possess, ship, transport, or receive any firearms or ammu-
6 nition." ;

7 (b) By striking out subsection (h) and inserting in
8 lieu thereof the following :

9 " (h) (1) It shall be unlawful for any person who, while
10 being employed by a person who is prohibited from possess-
11 ing, shipping, transporting, or receiving firearms or ammu-
12 nition under subsection (g), and who, knowing or having
13 reason to believe his employer falls within one of the classifi-
14 cations enumerated in subsection (g), to possess any firearm
15 or ammunition, in the course of such employment.

16 " (2) It shall be unlawful for any person to sell or other-
17 wise dispose of any firearm or ammunition to any person
18 unless he knows or has reasonable cause to believe that such
19 person is not prohibited from possessing, shipping, transport-
20 ing, or receiving a firearm or ammunition under subsection
21 (g) or (h) (1) of this section. This subsection shall not
22 apply with respect to the sale or disposition of a firearm or
23 ammunition to a licensed importer, licensed manufacturer,
24 licensed dealer, or licensed collector who pursuant to sub-

1 section (b) of section 929 of this chapter is not precluded
2 from dealing in firearms or ammunition.”

3 (c) Title VII of the Omnibus Crime Control and Safe
4 Streets Act of 1968 (18 U.S.C. App. 1201-1203) is
5 repealed.

6 PROHIBITION OF MULTIPLE HANDGUN SALES; REGULATION
7 OF SECONDARY HANDGUN SALES; CONTROL OF LIMITA-
8 TION OF FIREARMS; REGULATION OF DEALERS

9 SEC. 207. Section 922 of title 18 of the United States
10 Code as amended by sections 202, 204, 205, and 206 of
11 this Act, is further amended by adding at the end the fol-
12 lowing new subsections:

13 “(o) (1) It shall be unlawful for any person licensed
14 under section 923 of this chapter to sell, deliver, or other-
15 wise transfer two or more handguns to the same person,
16 other than a person licensed under such section 923, in
17 a period of thirty days or less, unless the transferee has
18 obtained prior approval of the purchase from the Secre-
19 tary, pursuant to regulations promulgated by the Secretary.

20 “(2) It shall be unlawful for any person, other than a
21 person licensed under section 923 of this chapter, to purchase
22 or receive two or more handguns in a period of thirty days or
23 less from one or more persons licensed under such section
24 923, or from such a licensee and from a person or persons

1 who are not such licensees, unless the person purchasing or
2 receiving the handguns has obtained prior approval of the
3 purchase from the Secretary pursuant to regulations promul-
4 gated by the Secretary.

5 “(3) It shall be unlawful for any person, other than a
6 person licensed under such section 923 to purchase or receive
7 two or more handguns in a period of thirty days or less
8 from a person or persons not licensed under such section
9 923 unless the person purchasing or receiving the handguns
10 notifies the Secretary of such purchase or receipt within
11 thirty days after the purchase or receipt.

12 “(p) It shall be unlawful for any person who pur-
13 chases or receives a handgun with the purpose of selling
14 or transferring the handgun to another person to sell or
15 transfer the handgun to such other person unless he knows
16 or has reasonable cause to believe that the purchase and
17 possession by such other person of the handgun would be
18 in accordance with Federal, State, and local law applicable
19 at the place of sale, delivery, or other disposition.

20 “(q) It shall be unlawful for any person to import,
21 manufacture, deal in, or transfer any imitation of a firearm
22 that is not clearly marked or identifiable as an imitation in
23 such manner as the Secretary shall by regulation prescribe.

24 “(r) It shall be unlawful for any person licensed under
25 section 923 of this chapter to—

1 “(1) repair, rebuild, remodel, alter or otherwise
2 perform work on any handgun unless the owner verifies,
3 in such manner as the Secretary shall by regulation
4 prescribe, that the owner is in lawful possession of the
5 handgun; and

6 “(2) repair, rebuild, remodel, alter, or otherwise
7 perform work on any prohibited handgun unless the
8 owner of the handgun is one of the persons who is
9 eligible to own or possess such a handgun under the pro-
10 visions of section 922 (n) (3) or 929 The provisions of
11 section 922 (n) (2) shall not apply to a transfer of a
12 prohibited handgun by a person not licensed under
13 section 923 of this chapter to a person so licensed, for
14 the purpose of modifying the prohibited handgun to meet
15 the standards of approval set forth in section 921 (a)
16 (28) of this chapter.

17 “(s) It shall be unlawful for any person licensed under
18 section 923 of this chapter knowingly to sell, deliver, or
19 otherwise transfer a firearm to any person who resides in
20 any jurisdiction which requires a license or permit as a pre-
21 requisite to purchase that firearm unless the purchaser has
22 complied with the law of that jurisdiction pertaining to
23 licenses or permits. In the case of a jurisdiction which
24 requires the registration of a handgun or other firearm
25 each licensed dealer shall forward to the local law en-

1 forcement authority notice of any purchase made by a
2 resident of that jurisdiction within the time limit required by
3 the registration law of that jurisdiction. In the case of a
4 jurisdiction which requires a waiting period to purchase a
5 handgun or other firearm, each dealer shall submit notice of
6 such purchase to the law enforcement authority of the pur-
7 chaser's residence and shall not transfer the firearm within
8 the waiting period of that jurisdiction."

9 SERIAL NUMBERS

10 SEC. 208. (a) Section 923 (i) of title 18 of the United
11 States Code is amended to read as follows:

12 “(i) Licensed importers and licensed manufacturers
13 shall identify, by means of a serial number, each firearm
14 imported or manufactured by such importer or manufacturer,
15 on the receiver or frame of the weapon, in such manner and
16 within such time as the Secretary shall by regulation pre-
17 scribe. The Secretary shall standardize the serialization of
18 firearms to insure that every handgun manufactured after the
19 effective date of the amendment made to this subsection by
20 the Federal Firearms Act of 1975 is marked with a unique
21 serial number.”

22 (b) Section 922 (k) of title 18 of the United States
23 Code is amended by inserting immediately after “any fire-
24 arm which” the following: “does not bear a serial number
25 or which”.

1 **AMENDMENT TO POSTAL PROVISIONS OF TITLE 18**

2 **SEC. 209.** Section 1715 of title 18, United States Code,
3 is amended:

4 (a) by inserting immediately after "Such articles"
5 in the second sentence the following: ", other than
6 handguns whose transfer is restricted under section
7 922 (n),"; and

8 (b) by inserting immediately after the second
9 sentence the following new sentence: "The Postal
10 Service shall promulgate regulations, subject to approval
11 of the Secretary of the Treasury, consistent with section
12 922 (n) of this title, concerning conveyance in the mails
13 of handguns subject to that section for the United
14 States or any department or agency thereof, or to any
15 State, department, agency, or political subdivision
16 thereof."

17 **EFFECTIVE DATES**

18 **SEC. 210.** (a) The amendments made by this title shall
19 take effect ninety days after the date of enactment.

20 (b) A valid license issued pursuant to section 923 of
21 title 18 of the United States Code shall be valid until it ex-
22 pires according to its terms unless it is sooner suspended,
23 revoked, or terminated pursuant to applicable provisions of
24 law.

1 TITLE III—FEDERAL HANDGUN TRACING CEN-
2 TER, HANDGUN PURCHASE PRECLEARANCE
3 PROCEDURES, AND GRANTS-IN-AID FOR
4 STATE HANDGUN ACCOUNTABILITY PRO-
5 GRAMS

6 SEC. 301. Section 922 (d) of title 18, United States
7 Code, is amended to read as follows:

8 “(d) In any case not otherwise prohibited by this chap-
9 ter, a licensed importer, licensed manufacturer, or licensed
10 dealer may sell a handgun to a person only if the person
11 appears in person at the licensee’s business premises (other
12 than a licensed importer, manufacturer, or dealer) and, in
13 order to assure that purchase and possession of the handgun
14 by the transferee would be in accordance with Federal, State,
15 and local law applicable at the place of sale, delivery, or other
16 disposition, only if—

17 “(1) the transferee submits to the transferor a
18 sworn statement prescribed in regulations to be promul-
19 gated by the Secretary setting forth—

20 “(A) his name, his residence, and the place
21 where the handgun will be kept; and

22 “(B) that his receipt of the handgun will not
23 be in violation of Federal law, or of a State or local
24 law applicable to his place of residence, or, if the
25 handgun will be kept at a place other than his place

1 of residence, of the place where the handgun will be
2 kept, and that he does not intend to resell or transfer
3 the handgun to a person who is barred from owning
4 or possessing it by Federal, State, or local law appli-
5 cable to the place of the latter person's residence or
6 other place where the handgun would be kept.

7 The sworn statement shall be accompanied by an
8 impression of the applicant's thumbprint, and shall also
9 include the title, name and address of the chief law
10 enforcement officer of the place of the transferee's resi-
11 dence and the place where the handgun will be kept.
12 If a State or local law applicable at the place of the
13 transferee's residence or where the handgun will be kept
14 requires that a person must have a permit or license to
15 own, possess, or purchase the handgun, a true copy of
16 such permit or license shall be attached to the sworn
17 statement. Any other information required to be sup-
18 plied to own, possess, or acquire a handgun under such
19 State or local law shall also be attached to the sworn
20 statement;

21 "(2) the transferee provides identification sufficient
22 to establish, under rules and regulations of the Secretary,
23 reasonable grounds to believe that the transferee is the
24 person he claims to be, and that his residence is at the
25 address stated in the transferee's sworn statement;

1 “(3) the transferor has, prior to delivery of the
2 handgun, forwarded immediately by registered or certi-
3 fied mail (return receipt requested), to the chief law
4 enforcement officer of the transferee’s place of residence
5 and to the chief law enforcement officer of any other
6 place where the transferee indicates in his sworn state-
7 ment that he will keep the handgun, a copy of the sworn
8 statement, in a form prescribed by the Secretary, for
9 purposes of notifying such officer of the proposed trans-
10 action, and of permitting such officer—

11 “(A) to check the record and identity of the
12 transferee, to determine whether ownership or pos-
13 session of the handgun by the transferee would be
14 in violation of State or local law of the transferee’s
15 residence or the place where the handgun will be
16 kept;

17 “(B) to request a record and identity check by
18 the Federal Bureau of Investigation which shall be
19 sent to the chief law enforcement officer within
20 ten working days of the Bureau’s receipt of the
21 request; and

22 “(C) to report to the transferor the results of
23 such check, determination, and request; and

24 “(4) the transferor has received reports from the
25 chief law enforcement officer of the transferee’s place of

1 residence and of the other place where the transferee has
2 indicated that the handgun will be kept, and the reports
3 do not indicate that the transferee is prohibited from
4 shipping, possessing, transporting, or receiving a hand-
5 gun under subsection (g) of this section, that the trans-
6 feree is less than eighteen years of age, or that the
7 purchase or possession of a handgun by the transferee
8 would be a violation of State or local law applicable at
9 the place of residence or place where the handgun will
10 be kept.

11 In no event shall the transferor deliver the handgun to the
12 transferee before at least twenty-one days has elapsed after
13 the transferee has submitted his sworn statement to the
14 transferor. A copy of the sworn statement and a copy of the
15 notification or notifications to the chief law enforcement
16 officer or officers, together with the reports received from
17 such officer or officers under paragraph (3) of this sub-
18 section shall be retained by the licensee as a part of the
19 records required to be kept under section 923 (g).”.

20 SEC. 302. Chapter 44 of title 18 of the United States
21 Code is amended by redesignating sections 924, 925, and
22 926 (as amended by title II of this Act), 927 and 928,
23 as 928 through 932, respectively, and inserting immediately
24 after section 923 the following new sections:

1 **"§ 924. National Handgun Tracing Center**

2 “(a) There is hereby established in the Bureau of Al-
3 cohol, Tobacco, and Firearms a National Handgun Tracing
4 Center (hereinafter referred to in this chapter as the
5 ‘Center’).

6 “(b) The Secretary of the Treasury is authorized and
7 directed to develop and maintain in the Center a systema-
8 tized and computerized information retrieval system which
9 shall contain all records and reports relating to handguns
10 which are required to be submitted to the Secretary under
11 this chapter, or which is received by the Secretary under
12 this chapter through voluntary participation of handgun
13 owners, or which is otherwise transferred to the Secretary
14 from State or local authorities having custody of handgun
15 registration information in such manner as is authorized by
16 law. Such Center shall be established and maintained in
17 the manner which is most reasonably calculated to assist
18 Federal, State, and local law enforcement officers in appre-
19 hending those persons who have used handguns in an un-
20 lawful manner, and to recover lost or stolen handguns and
21 return such weapons to their lawful owners.

22 “(c) The Center shall compile information on the pat-
23 tern of firearms manufacture, traffic, and sale in the United
24 States and submit annual reports summarizing such informa-
25 tion to the Congress. Each person licensed under section 923

1 shall on no less frequent than a quarterly basis, or more
2 often as the Secretary may by regulation require, provide
3 such reports and information as the Secretary shall by regu-
4 lation prescribe, including at least the following:

5 “(1) The quantity, serial numbers, calibers, types,
6 models, barrel length, and frame length of handguns im-
7 ported, manufactured, sold, delivered, or otherwise trans-
8 ferred.

9 “(2) The States and localities in which handguns
10 were imported, manufactured, sold, delivered, or other-
11 wise transferred.

12 “(3) The serial number, make and model of every
13 handgun sold during such reporting period, along with
14 the name and address of the person to whom such hand-
15 gun was transferred.

16 The reports and summaries shall also be made available to
17 State and local governments and law enforcement agencies
18 for the purpose of providing information on the extent of
19 legitimate firearms transactions in their jurisdictions and on
20 the success of the Federal Government in aiding State and
21 local efforts to curb illicit traffic handguns. The Secretary
22 shall also correlate the amount of handgun traffic with crime
23 rates in cities over 100,000 population and standard metro-
24 politan statistical areas to determine the relationship between

1 violence and crime to the level of handgun purchases and
2 ownership.

3 “(d) The Secretary shall not later than two years and
4 one hundred and eighty days after the date of the enactment
5 of this section report to the Congress on the effectiveness,
6 administration, and estimated compliance with the provisions
7 of this section. The Secretary shall collect data and statistics
8 which indicate the value of the Center to law enforcement
9 agencies and the estimated compliance with the provisions
10 of this section.

11 “(e) The Secretary may enter into agreements with
12 local and State government law enforcement agencies to
13 provide information the Center deems necessary on a peri-
14 odic basis, including at least the following:

15 “(1) The number of handguns by caliber, make,
16 model, barrel length, frame length, and approximate
17 age which were confiscated by the agency.

18 “(2) The number of confiscated handguns which
19 were destroyed.

20 “(3) The number of trace requests to the Center
21 and the number of such requests which resulted in
22 successful traces.

23 “(4) The number of traces which led to the arrest,
24 indictment, or conviction of a person or which led to

1 information which made such arrest, indictment, or
2 conviction possible.

3 “(5) Comments on the relative use of tracing to the
4 agency.

5 “(f) (1) Each dealer shall promptly after the date of
6 the enactment of this section provide the Center with such
7 information which the Secretary shall by regulation require,
8 including—

9 “(A) the total number of handguns sold by such
10 dealer during any period of time in which it was engaged
11 in the business of selling firearms from 1969 to the date
12 of enactment of this section; and

13 “(B) the serial number, make, and model of every
14 handgun sold during the period 1974 to the date of
15 enactment of this section including the name and address
16 of the purchaser.

17 “(2) Each manufacturer and importer shall provide the
18 Center with such information which the Secretary shall by
19 regulation require, including—

20 “(A) the total number of handguns sold during the
21 period of time in which it was engaged in the business
22 of manufacturing or importing firearms from 1969 to
23 the date of enactment of this section; and

24 “(B) the serial numbers and models of every hand-

1 gun manufactured and sold during the period 1974 to
2 the enactment of this section and to whom each such
3 handgun was sold and the number of handguns sold to
4 each licensee.

5 “(3) Each pawnbroker previously or currently licensed
6 under the provision of this chapter to sell firearms shall pro-
7 vide the Center with such information which the Secretary
8 shall by regulation require, including—

9 “(A) the total number of handguns sold during the
10 period of time in which it was engaged in business of
11 selling handguns from 1969 to the date of enactment of
12 this section, which shall include a breakdown by new
13 and used handguns; and

14 “(B) provide the serial number, make, and model
15 of every handgun sold during the period 1975 to the
16 date of enactment of this section, including the name and
17 address of the purchaser.

18 The Secretary shall prescribe such forms as are necessary for
19 the efficient collection and use of the information required by
20 this section.

21 **“§ 925. Assistance to States for Weapons Accountability**
22 **Programs**

23 “(a) (1) Whenever the Secretary determines—

24 “(A) that a State agency will carry out the regis-

1 tration provisions of subsection (b) of this section in an
2 adequate manner; and

3 “(B) that the State agency has filed an application
4 in such form and containing such information as the
5 Secretary may reasonably require, for a grant under this
6 section;

7 the Secretary is authorized to enter into an agreement with
8 that State agency under this section to pay to the State
9 agency a grant equal to the cost of carrying out the handgun
10 registration program required by this subsection in that
11 State.

12 “(2) Each agreement entered into under this section
13 shall contain provisions to assure that—

14 “(A) the State agency will administer all the pro-
15 visions of this section relating to the registration of
16 handguns within the State efficiently and effectively;

17 “(B) the State agency shall expeditiously forward
18 to the Secretary all information required to be provided
19 under this section and the regulations made pursuant to
20 it;

21 “(C) the State will take such steps as may be nec-
22 essary to provide handgun transferors with the results
23 of prepurchase checks and determinations of handgun

transferees in not more than twenty-one days, as provided under section 922 (d) (3) of this title; and

“(D) the State agency shall forward to the Federal Handgun Tracing Center a complete listing of handgun registrations obtained pursuant to the laws of such State.

“(3) Payments under this section may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

“(b) An adequate State handgun registration system shall include the following standards:

“(1) The State agency compiling the information on handgun ownership and maintaining the records of that information shall be subject to substantially the same requirements and standards as set forth in section 552a of title 5 of the United States Code and applicable to certain Federal records. The records shall not be exempted from any of the requirements of section 552a of that title under subsection (j) of that section.

“(2) The information shall not be disclosed or made public in any manner not authorized by this chapter.

“(3) The administration and enforcement of the State registration system shall prevent the migration of handguns from that State to another State.

1 “(4) The system shall establish a procedure where-
2 by the records of handguns no longer in existence are
3 expunged.

4 “(5) Employees of the system shall not be per-
5 sons prohibited by this chapter or any provision of State
6 or local law from purchasing, possessing, or registering
7 firearms.

8 “(6) A person, other than a person licensed under
9 section 923 of this chapter, who owns or possesses a
10 handgun on the effective date of this section shall, un-
11 less he sooner transfers the handgun, file an application
12 for registration of the handgun with the appropriate
13 governmental authority, within sixty days of such ef-
14 fective date.

15 “(7) An application for registration of a handgun
16 shall be in a form to be prescribed by the Secretary.
17 The original application shall be signed by the applicant
18 and filed by him with the appropriate governmental
19 authority together with a fee established by such author-
20 ity, in such place as such governmental authority by
21 regulation may provide. The application form shall con-
22 tain sufficient copies to allow the applicant to retain a
23 duplicate of the original as temporary evidence of regis-
24 tration, and to allow the transferor to retain a duplicate

1 of the original, which the transferor shall retain as a
2 permanent record.

3 “(8) An application for registration of a handgun
4 shall contain such information as the Secretary shall by
5 regulation prescribe, including:

6 “(A) the name, address, date and place of
7 birth, and social security or taxpayer identification
8 number, of the applicant;

9 “(B) the name of the manufacturer, the caliber
10 or gauge, barrel length, the model and the type,
11 and the serial number, of the handgun; and

12 “(C) the date, and the place of the transfer, the
13 name and address of the person from whom the
14 handgun is to be obtained, the number of such per-
15 son's certificate of ownership of such handgun, if
16 any, and, if such person is licensed under section
17 923, his license number.

18 “(9) Any person who sells, delivers, or otherwise
19 transfers a handgun registered under this section, shall,
20 within five days of such sale, delivery, or other transfer,
21 return to the appropriate governmental authority his
22 certificate of registration, noting on it such information
23 as the Secretary shall by regulation prescribe,
24 including—

1 “(A) the name and address of the transferee;
2 and

3 “(B) the date of the sale, delivery, or other
4 transfer.

5 “(10) (A) When a person not licensed under sec-
6 tion 923 of this chapter sells, delivers, or otherwise
7 transfers a handgun to a person licensed under section
8 923, the licensee shall insure that the transferor returns
9 the certificate of registration to the appropriate govern-
10 mental authority in the form required by paragraph
11 (9), and the licensee shall record the handgun and the
12 transaction in such manner as the Secretary shall by
13 regulation prescribe.

14 “(B) No person shall take and hold a handgun
15 by way of pledge or pawn.

16 “(11) Any person to whom a handgun registration
17 certificate has been issued by an appropriate govern-
18 mental authority under this section shall notify such
19 governmental authority of any change in such person's
20 name or address within thirty days of the date of any
21 such change in such manner as the Secretary shall by
22 regulation prescribe. Registration of a handgun shall
23 expire at the end of such thirty-day period unless the

1 registrant so notifies the appropriate governmental
2 authority.

3 “(12) The executor or administrator of any estate
4 containing a registered handgun shall promptly notify
5 the appropriate governmental authority of the death of
6 the registered owner, return the certificate of registration
7 of the deceased registered owner to the appropriate gov-
8 ernmental authority, and register the handgun in the
9 name of the estate according to the provisions of this
10 section. The executor or administrator of an estate con-
11 taining an unregistered handgun shall promptly sur-
12 render such handgun to the Secretary or his designee and
13 shall not be subject to any penalty or any prior failure
14 to register such handgun.

15 “(13) Whoever owns or possesses a handgun re-
16 quired to be registered under this chapter shall notify
17 the appropriate governmental authority of the loss,
18 theft, or destruction of such handgun not later than forty-
19 eight hours after the discovery of such loss, theft, or
20 destruction, and if, after such notice, such handgun is
21 recovered shall notify the appropriate governmental
22 authority of the recovery.

23 **“§ 926. Secondary handgun sales**

24 “(a) No handgun shall be sold, delivered, or otherwise
25 transferred by any person not licensed under section 923,

1 except according to the method specified in subsection (b) of
2 this section.

3 “(b) Unless otherwise provided under a State law ap-
4 proved by the Secretary under section 925, all transfers of
5 ownership or possession of handguns shall be through dealers
6 licensed under section 923 of this title. Under regulations pro-
7 mulgated by the Secretary, the handgun which is the subject
8 matter of the transaction shall be delivered to a dealer licensed
9 under section 923 of this title, and the transfer shall there-
10 after proceed in every respect as if it were a sale by a li-
11 censed dealer, and no such transfer shall be completed unless
12 it complies with requirements of section 922 (d) of this title.

13 “(c) For any reasonable expenses incurred by a dealer
14 licensed under section 923 of this title in complying with this
15 section, such dealer may charge a fee to the parties not to
16 exceed \$5 per sale or transfer.

17 **“§ 927. Use and disclosure of information**

18 “(a) Except with respect to a prosecution for false state-
19 ment or misrepresentation, no information submitted by a
20 person as provided under section 924 or 925 (or any infor-
21 mation directly or indirectly derived from such information)
22 may be used against that person in any Federal, State, or
23 local proceeding with respect to a violation of law occurring
24 prior to or concurrently with the submission of the informa-
25 tion.

1 “(b) If any Federal, State, or local agency requests
2 the disclosure of information or records compiled under
3 section 924 or 925 of this chapter, the Secretary or other
4 appropriate governmental authority shall determine if the
5 requesting agency intends to use the information directly or
6 indirectly in any proceeding involving acts occurring prior
7 to or concurrently with the submission of the information. If
8 the information is requested in connection with any pro-
9 ceeding involving acts occurring prior to or concurrently
10 with the submission of the requested information, the Sec-
11 retary or the appropriate governmental authority shall not
12 release the information.

13 “(c) No information compiled under section 924 or
14 925 shall be disclosed or made public in any manner not
15 authorized by this chapter. Records compiled by the Secre-
16 tary under this chapter shall not be exempt under section
17 552a(j) of title 5 of the United States Code from the other
18 requirements of such section 552a.”.

19 SEC. 303. (a) Section 924 of title 18, United States
20 Code (redesignated as section 928 by section 302 of this
21 Act), is amended by striking the word “one” in subsection
22 (c) and inserting in lieu thereof the word “two”, and by
23 striking the word “two” in subsection (c) and inserting
24 in lieu thereof the word “five”.

1 (b) Subsection (e) of section 3575 of title 18 of the
2 United States Code is amended (1) by striking out the
3 period at the end of paragraph (3) thereof and inserting in
4 lieu thereof a semicolon and the word "or", and (2) by add-
5 ing immediately after paragraph (3) thereof the following
6 new paragraph:

7 “(4) the defendant used a firearm (as defined in
8 section 921 (a) (3) of this title) to commit such felony,
9 or unlawfully carried a firearm (as defined in section 921
10 (a) (3) of this title) during the commission of such
11 felony.”.

12 (c) Section 3575 of title 18, United States Code, is
13 amended by adding at the end thereof the following new
14 subsection:

15 “(h) Nothing in this section shall be construed as
16 amending, altering, modifying, or otherwise affecting the
17 provisions of subsection (e) of section 928 of this title, or as
18 affecting the applicability of such provisions to any defendant
19 sentenced pursuant to this section.”.

20 AUTHORIZATION OF APPROPRIATIONS

21 SEC. 304. There are authorized to be appropriated such
22 sums as may be necessary to carry out the amendments made
23 by this title.

TECHNICAL AMENDMENTS

SEC. 305. (a) The table of sections of chapter 44 of title 18 of the United States Code is amended to read as follows:

"Sec.

"921. Definitions.

"922. Unlawful acts.

"923. Licensing.

"924. National Handgun Tracing Center.

"925. Assistance to States for weapons accountability programs.

"926. Secondary handgun sales.

"927. Use and disclosure of information.

"928. Penalties.

"929. Exceptions: relief from disabilities.

"930. Rules and regulations.

"931. Effect on State law.

"932. Separability."

(b) Section 922 (1) is amended by striking "925 (d)" and inserting in lieu thereof "929 (d)".

EFFECTIVE DATES

SEC. 306. The amendments made by this title shall take effect one hundred and eighty days after the date of enactment of this Act.

TITLE IV—FEDERAL FIREARMS ENFORCEMENT POLICY COORDINATING COUNCIL

SEC. 401. (a) There is hereby established the Federal Firearms Enforcement Policy Coordinating Council (hereinafter in this section referred to as the "Council").

(b) The members of the Council shall be the Attorney General of the United States, the Secretary of the Treasury of the United States, the Director of the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury,

1 the Director of the Domestic Council, the Administrator of
2 the Law Enforcement Assistance Administration, or their re-
3 spective designees and representatives of such other agencies
4 as the President shall designate.

5 (c) The Secretary of the Treasury shall serve as Chair-
6 man of the Council. The Director of the Bureau of Alcohol,
7 Tobacco, and Firearms shall serve as Vice Chairman and
8 shall act as Chairman in the absence of the Chairman.

9 (d) The Council shall—

10 (1) coordinate the effective administration and en-
11 forcement of Federal firearms control laws;

12 (2) assist the States in the implementation, ad-
13 ministration, and enforcement of State firearms control
14 systems and laws;

15 (3) implement and coordinate research programs
16 to hasten the development of improved methods of fire-
17 arms detection;

18 (4) develop and implement programs to reduce
19 firearms misuse; and

20 (5) develop improved methods of firearms trac-
21 ing, identification, ballistics, and detections.

22 (e) The Council shall report at least annually to the
23 President and to the Congress concerning the development,
24 implementation, and coordination of Federal, State, and local
25 firearms control systems and programs.

1 (f) The Council shall promulgate procedures to insure
2 that the Regional Directors of the Bureau of Alcohol, To-
3 bacco, and Firearms, the United States attorneys from each
4 region, and the chief law enforcement officials from State and
5 local governments within each region meet at least twice
6 yearly to discuss the problems of handgun traffic and illicit
7 handgun misuse in each region, and to coordinate the en-
8 forcement of State and Federal laws regulating firearms, and
9 firearms use and misuse.

10 (g) The Council shall meet at least six times annually
11 and a description of its activities shall be included in the
12 annual report required by subsection (c).

13 (h) The Chairman shall, with the approval of the
14 Council, appoint an executive director of the Council who
15 shall be responsible for the administration of the activities
16 of the Council. The executive director may, with the ap-
17 proval of the Council, appoint such personnel as is considered
18 necessary to carry out the provisions of this title. The execu-
19 tive director shall be compensated at a rate not to exceed
20 the rate now or hereafter prescribed for GS-15 of the General
21 Schedule by section 5532 of title 5 of the United States Code.

22 (i) Members of the Council who are employed by the
23 Federal Government full time shall be reimbursed for travel,
24 subsistence, and other necessary expenses incurred by them
25 in carrying out the duties of the Council.

1 (j) The Council shall remain in existence for ten years
2 unless otherwise extended by Congress.

3 (k) There are authorized to be appropriated such sums
4 as may be necessary to carry out the provisions of this title.

5 **TITLE V—DEVELOPMENT OF STATE FIREARMS**
6 **MISUSE PREVENTION SYSTEMS AND IMPLE-**
7 **MENTATION OF MODEL FIREARMS MISUSE**
8 **STATUTE**

9 SEC. 501. The Administrator of the Law Enforcement
10 Assistance Administration is authorized to make grants to
11 State and local governments to assist them in planning, estab-
12 lishing, operating, coordinating, and evaluating projects di-
13 rectly, or through contracts with public and private agencies
14 for the development of, more effective education, training,
15 research, and prevention in the area of firearms misuse.
16 Such projects may also include public education programs
17 on the safe use of firearms, and the payment of compensation
18 to individuals who voluntarily relinquish handguns to the
19 authorized officials of State or local governments.

20 SEC. 502. In accordance with regulations promulgated
21 under this title, funds shall be allocated annually among the
22 States on the basis of the relative number of firearms offenses,
23 and the relative rates of such offenses per one hundred thou-
24 sand people.

25 SEC. 503. In accordance with regulations promulgated

1 under this title, a portion of any allotment to any State under
2 this title shall be available to develop a State plan and to pay
3 that portion of the expenditures which are necessary for effi-
4 cient administration. Not more than 15 per centum of the
5 total annual allotment of such State shall be available for such
6 purposes. The State shall make available needed funds for
7 planning and administration to local governments on an
8 equitable basis.

9 SEC. 504. (a) In order to receive grants under this
10 part a State shall submit a plan for carrying out its purposes
11 consistent with the provisions of section 303 (a) (1), (3),
12 (5), (6), (8), (10), (11), (12), and (15) of title I of
13 the Omnibus Crime Control and Safe Streets Act of 1968.
14 In accordance with the regulations established under that
15 title, such plan shall—

16 (1) designate the State planning agency established
17 by the State under section 203 of such title I as the sole
18 agency for supervising the preparation and administra-
19 tion of the plan;

20 (2) contain satisfactory evidence that the State
21 agency designated in accordance with paragraph (1)
22 (hereafter referred to in this title as the "State plan-
23 ning agency") has or will have authority, by legislation
24 if necessary, to implement such plan in conformity with
25 this part;

1 (3) provide for an advisory group appointed by
2 the chief executive of the State, which advisory group
3 shall consist of no less than fifteen persons, and shall
4 consist of representatives of the courts, prosecutors, offi-
5 cials of the penal system, and private citizens interested
6 in firearms control;

7 (4) provide for the active consultation with and
8 participation of local governments in the development
9 of a State plan which adequately takes into account the
10 needs and requests of local governments;

11 (5) provide that the chief executive of the State
12 shall assign the responsibility for the administration
13 of the plan to that agency which can most effectively
14 carry out the provisions of this title, and shall pro-
15 vide for the supervision of the programs funded under
16 this part;

17 (6) set forth a detailed study of the States needs
18 for an effective, comprehensive, coordinated approach to
19 firearms misuse prevention, including a detailed item-
20 ized estimate of costs for the development and imple-
21 mentation of such programs;

22 (7) set forth a detailed plan whereby persons who
23 misuse firearms in violation of any law are identified and
24 swiftly processed through the State or local court
25 system; and

(8) set forth detailed programs whereby the State plans to improve the performance of its court system in the swift trial and swift punishment of persons convicted of firearms misuse offenses.

(b) Such plan may at the discretion of the Administrator be incorporated into the plan specified in section 303

(a) of the Omnibus Crime Control and Safe Streets Act.

SEC. 505. The Administrator shall approve any State plan which in his judgment meets the requirements of this section.

SEC. 506. No payments shall be made to any State which has not adopted in substance the model firearms misuse statute set forth in section 507 of this title.

SEC. 507. The model firearms misuse statute is as follows:

(a) Any person who—

(1) displays or otherwise uses a firearm during the commission of a crime;

(2) displays or otherwise uses an imitation of a firearm during the commission of a crime;

(3) possesses a firearm during the commission of a crime; or

(4) transports or possesses a firearm or ammunition with intent that it be used, or with knowledge that it may be used, to commit a felony;

1 shall be sentenced in accordance with subsections (b) and
2 (c).

3 (b) (1) A defendant convicted of an offense enumer-
4 ated in subsection (a) (1) or (a) (2) above, shall be im-
5 prisoned for a term not to exceed seven years.

6 (2) A defendant convicted of an offense enumerated in
7 subsection (a) (3) or (a) (4) shall be imprisoned for a term
8 not to exceed three years.

9 (3) If prior to the commission of an offense enumerated
10 in subsection (a) the defendant has been convicted of a Fed-
11 eral or State offense during the commission of which he dis-
12 played or otherwise used a dangerous weapon, the term of
13 imprisonment in subsection (b) (1) shall be for not less than
14 fifteen years, and the term in subsection (b) (2) shall be
15 for not less than seven years.

16 (c) Notwithstanding any other provision of law, the
17 court may not sentence the defendant to probation, or other-
18 wise suspend the sentence, but shall sentence him to a term
19 of imprisonment as follows:

20 (1) If the maximum term of imprisonment is fifteen
21 years, the defendant shall be imprisoned for a term of
22 not less than five years;

23 (2) if the maximum term of imprisonment is seven
24 years, the defendant shall be imprisoned for a term of
25 not less than three years; and

1 (3) if the maximum term of imprisonment is three
2 years, the defendant shall be sentenced to a term of not
3 less than one year.

4 (d) Notwithstanding any other provision of law, any
5 term of imprisonment imposed under this section shall run
6 consecutively with any other term of imprisonment imposed
7 upon the defendant.

8 SEC. 508. (a) Funds paid pursuant to this title to any
9 State, public or private agency, institution, or individual
10 (whether directly or through a State or local agency) may
11 be used for—

12 (1) planning, developing, or operating the pro-
13 gram designed to carry out the purposes of this title; and

14 (2) not more than 50 per centum of the cost of
15 the construction of innovative community-based facilities
16 for less than twenty persons which, in the judgment of
17 the Administrator, are necessary for carrying out the
18 purposes of this part.

19 (b) Except as provided by subsection (a), no funds
20 paid to any public or private agency, institution, or individual
21 under this part (whether directly or through a State or local
22 agency) may be used for construction.

23 SEC. 509. (a) In accordance with criteria established by
24 the Administrator, it is the policy of Congress that programs
25 funded under this title shall continue to receive financial

1 assistance providing that the yearly evaluation of such pro-
2 grams is satisfactory.

3 (b) At the discretion of the Administrator, when there
4 is no other way to fund an essential firearms misuse pre-
5 vention program not funded under this title, the State may
6 utilize 25 per centum of the formula grant funds avail-
7 able to it under this part to meet the non-Federal matching
8 share requirement for any other Federal firearms misuse
9 prevention program grant.

10 (c) Whenever the Administrator determines that it will
11 contribute to the purposes of this title, he may require the
12 recipient of any grant or contract to contribute money, facili-
13 ties, or services.

14 (d) Payments under this title, pursuant to a grant or
15 contract, may be made (after necessary adjustment, in the
16 case of grants, on account of previously made overpayments
17 or underpayments) in advance or by way of reimbursements,
18 in such installments and on such conditions as the Adminis-
19 trator may determine.

20 SEC. 510. (a) To carry out the purposes of this title
21 there is authorized to be appropriated such sums as may be
22 necessary for the fiscal years up to and including the fiscal
23 year ending September 30, 1979.

24 (b) In addition to the funds appropriated under this
25 section, the Administration shall maintain from other Law

1 Enforcement Assistance Administration appropriations other
2 than the appropriations for administration, at least the same
3 level of financial assistance for firearms misuse prevention
4 programs assisted by the Law Enforcement Assistance Ad-
5 ministration during fiscal year 1975.

6 SEC. 511. (a) No financial assistance for any program
7 under this Act shall be provided unless the grant, contract,
8 or agreement with respect to such program specifically pro-
9 vides that no recipient of funds will discriminate as provided
10 in subsection (b) with respect to any such program.

11 (b) No person in the United States shall on the ground
12 of race, creed, color, sex, or national origin be excluded from
13 participation in, be denied the benefits of, be subjected to dis-
14 crimination under, or be denied employment in connection
15 with any program or activity receiving assistance under this
16 Act. The provisions of the preceding sentence shall be en-
17 forced in accordance with section 603 of the Civil Rights
18 Act of 1964. Section 603 of such Act shall apply with re-
19 spect to any action taken to enforce such sentence. This sec-
20 tion shall not be construed as affecting any other legal rem-
21 edy that a person may have if such person is excluded from
22 participation in, denied the benefits of, subjected to dis-
23 crimination under, or denied employment in connection with
24 any program or activity receiving assistance under this Act,

TITLE VI

AMENDMENTS TO THE INTERNAL REVENUE CODE

SEC. 601. (a) Section 4181 of chapter 32 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended—

(1) by inserting “(a) IN GENERAL.—” immediately before “There”; and

(2) by adding at the end thereof the following new subsection:

“(b) ADDITIONAL TAX ON PISTOLS AND REVOLVERS.— In addition to the tax imposed under subsection (a), there is hereby imposed a tax of \$25 upon the sale of any pistol or revolver by the manufacturer, producer, or importer thereof.”.

(b) (1) Subsection (a) of section 4226 of such Code (relating to floor stocks taxes) is amended to read as follows:

“(a) TAX ON PISTOLS AND REVOLVERS.—

“(1) IN GENERAL.—There is hereby imposed a floor stocks tax of \$25 on any pistol or revolver which was sold by the manufacturer, producer, or importer, and which date is held by a dealer for sale on the floor stocks.

“(2) FLOOR STOCKS DATE DEFINED.—For purposes of this section, the term ‘floor stocks date’ means

1 the 180th day after the date of the enactment of the
2 Federal Firearms Act of 1975.”.

3 (2) Subsection (d) of such section 4226 is amended to
4 read as follows:

5 “(d) DUE DATE OF TAX.—The tax imposed by subsec-
6 tion (a) (1) shall be paid at such time, not earlier than 90
7 days after the floor stocks date, as may be prescribed by the
8 Secretary or his delegate.”.

9 (e) (1) Section 4182 of such Code (relating to exemp-
10 tions) is amended by striking out “tax imposed” and insert-
11 ing in lieu thereof “taxes imposed”.

12 (2) Section 5831 of such Code (a cross reference) is
13 amended by striking out “excise tax” and inserting in lieu
14 thereof “excise taxes”.

15 (d) The amendments made by this section shall apply
16 with respect to transfers made on or after the one hundred
17 and eightieth day after the date of the enactment of this Act.

94TH CONGRESS
1ST SESSION

H. R. 40

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. BINGHAM introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Handgun Control Act
4 of 1975".

5 SECTION 1. The Congress hereby finds and declares—

6 (a) that annual sales of handguns in the United
7 States have risen sharply in the last decade, bringing the

1 total number of handguns in private hands to approxi-
2 mately twenty-four million by the end of 1968; and

3 (b) that handguns play a major role, and a role
4 disproportionate to their number in comparison with
5 long guns, in the commission of homicide, aggravated
6 assault, and armed robbery, and that the percentage of
7 violent crimes in which handguns are used is increasing;
8 and

9 (c) that most homicides are committed in alterca-
10 tions between relatives, neighbors, or other acquaint-
11 ances, rather than in a confrontation between strangers;
12 and

13 (d) that handguns in the home are of less value
14 than is commonly thought in defending against intrud-
15 ers, and are more likely to increase the danger of a
16 firearm fatality to the inhabitants than to enhance their
17 personal safety; and

18 (e) that with few exceptions, handguns are not
19 used for sporting or recreational purposes and that such
20 purposes do not require keeping handguns in private
21 homes; and

22 (f) that more than one-half of all handguns are
23 acquired secondhand and that licensing and restrictions
24 on sale of new handguns will not significantly reduce
25 handgun crime and handgun violence; and

(g) that violent crimes perpetrated with handguns constitute a burden upon and interfere with interstate and foreign commerce and threaten the internal security and domestic tranquillity of the Nation; and

(h) that fear of firearms crimes discourages citizens from traveling between the States to conduct business or to visit the Nation's Capital; and

(i) that crimes committed with guns have disrupted our national political processes, and threaten the republican form of government within the States as guaranteed by article IV of the Constitution; and

(j) that a national firearms policy which restricts the availability of handguns for nonlaw enforcement and nonmilitary purposes will significantly reduce violent crime, reduce deaths from handguns, and reduce other handgun violence in the United States.

SEC. 2. Title 18, United States Code, is amended by inserting immediately after chapter 50 thereof the following new chapter:

"Chapter 50A—HANDGUNS

"Sec.

"1091. Unlawful acts.

"1092. Licensing.

"1093. Penalties.

"1094. Exceptions.

"1095. Voluntary delivery to law enforcement agency; reimbursement.

"1096. Rules and regulations.

"1097. Effect on State law.

"1098. Separability clause.

"1099. Appropriations.

"1100. Definitions.

1 **“§ 1091. Unlawful acts**

2 “(a) Except as provided in section 1094 of this chapter
3 and in subsection (c) of this section, it shall be unlawful for
4 any person to import, manufacture, sell, buy, transfer, re-
5 ceive, or transport any handgun and handgun ammunition.

6 “(b) Except as provided in section 1094 of this chapter
7 and in subsection (c) of this section, it shall be unlawful, after
8 one hundred and eighty days from the effective date of this
9 chapter, for any person to own or possess any handgun or
10 handgun ammunition.

11 “(c) The Secretary may, consistent with public safety and
12 necessity, exempt from the operation of subsection (a) and
13 subsection (b) of this section such importation, manufacture,
14 sale, purchase, transfer, receipt, possession, ownership, or
15 transportation of handguns and handgun ammunition by im-
16 porters, manufacturers, or dealers, licensed under chapter 44
17 of this title, and by pistol clubs licensed under this chapter, as
18 may in his judgment be required for the operation of such
19 pistol clubs or for purposes in section 1094 of this chapter.

20 “(d) It shall be unlawful for any licensed importer,
21 manufacturer, or dealer to sell or otherwise transfer any
22 handgun or handgun ammunition to any person, except
23 another licensed importer, manufacturer, or dealer, without
24 presentation by the purchaser or recipient of written verifi-
25 cation that the receipt or purchase is being made by or on

1 behalf of a person or government agency eligible to obtain
2 and possess handguns under section 1094 of this chapter
3 or a pistol club licensed under this chapter.

4 “(c) Every manufacturer, importer, and dealer who
5 sells or otherwise transfers handguns or handgun ammuni-
6 tion shall maintain records of sale or transfer of handguns
7 and handgun ammunition in such form as the Secretary may
8 by regulations provide and shall permit the Secretary to
9 enter the premises at reasonable times for the purpose of
10 inspecting such records.

11 **“§ 1092. Licensing**

12 “(a) A pistol club desiring to be licensed under this
13 chapter shall file an application for such license with the
14 Secretary. The application shall be in such form and contain
15 such information as the Secretary shall by regulation pre-
16 scribe. The fee for such license shall be \$25 per year.

17 “(b) Any importer, manufacturer, or dealer desiring
18 to be licensed under this chapter shall apply as provided in
19 chapter 44 of this title.

20 “(c) Any application submitted under subsection (a)
21 shall be approved if—

22 “(1) no member of the pistol club is a person whose
23 membership and participation in the club is in violation
24 of any applicable State laws;

1 “(2) no member of the pistol club is prohibited
2 from transporting, shipping, or receiving firearms or
3 ammunition in interstate or foreign commerce under
4 section 922 (g) or (h) of this title;

5 “(3) no member of the pistol club has willfully
6 violated any of the provisions of this chapter or of chap-
7 ter 44 of this title or any regulations issued thereunder;

8 “(4) the pistol club has not willfully failed to dis-
9 close any material information required, or has not made
10 any false statement as to any material fact in connection
11 with its application;

12 “(5) the club has been founded and operated for
13 bona fide target or sport shooting and other legitimate
14 recreational purposes; and

15 “(6) the pistol club has premises from which it
16 operates and—

17 “(A) maintains possession and control of the
18 handguns used by its members, and

19 “(B) (i) has procedures and facilities for keep-
20 ing such handguns in a secure place, under the con-
21 trol of the club’s chief officer, at all times when
22 they are not being used for target shooting or other
23 sporting or recreational purposes, or

24 “(ii) has effected arrangements for the storage
25 of the members’ handguns in a facility of the local

1 police department or other nearby law enforcement
2 agency.

3 “(d) (1) The Secretary must approve or deny an appli-
4 cation for a license with the sixty-day period beginning on
5 the date it is received. If the Secretary fails to act within
6 such period, the applicant may file an action under section
7 1361 of title 28 to compel the Secretary to act. If the Sec-
8 retary approves an applicant's application, such applicant
9 shall be issued a license upon payment of the prescribed fee.

10 “(2) The Secretary may, after notice and opportunity
11 for hearing, revoke any license issued under this section if
12 the holder of such license has violated any provision of this
13 chapter or of chapter 44 of this title or any rule or regula-
14 tions prescribed by the Secretary under such chapters. The
15 Secretary's action under this paragraph may be reviewed
16 only as provided in subsection (e) of this section.

17 “(e) (1) Any person whose application for a license is
18 denied and any holder of a license which is revoked shall
19 receive a written notice from the Secretary stating specifically
20 the grounds upon which the application was denied or upon
21 which the license was revoked. Any notice of revocation of
22 a license shall be given to the holder of such license before
23 the effective date of the revocation.

24 “(2) If the Secretary denies an application for, or re-
25 vokes, a license, he shall, upon request by the aggrieved

1 party, promptly hold a hearing to review his denial or revo-
2 cation. In the case of a revocation of a license, the Secretary
3 shall upon the request of the holder of the license stay the
4 effective date of the revocation. A hearing held under this
5 paragraph shall be held at a location convenient to the
6 aggrieved party.

7 “(3) If after a hearing held under paragraph (2) the
8 Secretary decides not to reverse his decision to deny an
9 application or revoke a license, the Secretary shall give
10 notice of his decision to the aggrieved party. The aggrieved
11 party may at any time within sixty days after the date
12 notice was given under this paragraph file a petition with
13 the United States district court for the district in which he
14 resides or has his principal place of business for a judicial
15 review of such denial or revocation. In a proceeding con-
16 ducted under this subsection, the court may consider any
17 evidence submitted by the parties to the proceeding. If the
18 court decides that the Secretary was not authorized to deny
19 the application or to revoke the license, the court shall order
20 the Secretary to take such action as may be necessary to
21 comply with the judgment of the court.

22 “(f) Each licensed pistol club shall maintain such rec-
23 ords of receipt, sale, or other disposition, of handguns at
24 such place, for such period, and in such form as the Secretary
25 may by regulations prescribe. Such pistol clubs shall make

1 such records available for inspection at all reasonable times,
2 and shall submit to the Secretary such reports and informa-
3 tion with respect to such records and the contents thereof
4 as he shall by regulations prescribe. The Secretary may
5 enter at reasonable times the premises (including places
6 of storage) of any pistol club for the purpose of inspecting
7 or examining (1) any records of documents required to
8 be kept by such pistol club under the provisions of this
9 chapter or chapter 44 of this title and regulations issued
10 under such chapters, and (2) any handguns or ammunition
11 kept or stored by such pistol club at such premises.

12 “(g) Licenses issued under the provisions of subsection
13 (c) of this section shall be kept posted and kept available for
14 inspection on the premises covered by the license.

15 “(h) The loss or theft of any firearms shall be reported
16 by the person from whose possession it was lost or stolen,
17 within thirty days after such loss or theft is discovered, to
18 the Secretary. Such report shall include such information as
19 the Secretary by regulation shall prescribe, including, without
20 limitation, the date and place of theft or loss.

21 **“§ 1093. Penalties**

22 “(a) Whoever violates any provision of Section 1091 of
23 this chapter shall be fined not more than \$5,000, or impris-
24 oned not more than five years, or both, and shall become
25 eligible for parole as the Board of Parole shall determine.

1 “(b) Whoever knowingly makes any false statement or
2 representation with respect to the information required by the
3 provisions of this chapter to be kept in the records of an
4 importer, manufacturer, dealer or pistol club, licensed under
5 this chapter, or in applying for a pistol club license under the
6 provisions of this chapter, shall be fined not more than \$5,000,
7 or imprisoned not more than five years, or both, and shall
8 become eligible for parole as the Board of Parole shall
9 determine.

10 “(c) Any handgun or handgun ammunition involved or
11 used in, or intended to be used in, any violation of the pro-
12 visions of this chapter or chapter 44 of this title or any
13 rule or regulation promulgated thereunder, or any violation
14 of any other criminal law of the United States, shall be sub-
15 ject to seizure and forfeiture and all provisions of the Internal
16 Revenue Code of 1954 relating to the seizure, forfeiture, and
17 disposition of firearms shall, so far as applicable, extend to
18 seizures and forfeitures under the provisions of this chapter.

19 “(d) Except as provided in subsection (b), no informa-
20 tion or evidence obtained from an application or certificate
21 of registration required to be submitted or retained by a
22 natural person in order to comply with any provision of the
23 chapter or regulations issued by the Secretary shall be used,
24 directly or indirectly, as evidence against that person in a
25 criminal proceeding with respect to a violation of law occur-

1 ring prior to or concurrently with the filing of the application
2 for registration containing the information or evidence.

3 **“§ 1094. Exceptions**

4 “(a) The provisions of this chapter shall not apply with
5 respect to the importation, manufacture, sale, purchase,
6 transfer, receipt, or transportation of any handgun or hand-
7 gun ammunition which the Secretary determines is being
8 imported or manufactured for, sold, or transferred to, pur-
9 chased, received, owned, possessed, or transported by, or
10 issued for the use of—

11 “(1) a professional security guard service which is
12 licensed by the State in which the handgun is to be
13 used, and which is authorized to provide armed security
14 guards for hire; or

15 “(2) the United States or any department or
16 agency thereof or any State or any department, agency,
17 or political subdivision thereof.

18 “(b) Every security guard service purchasing, receiv-
19 ing, owning, possessing, or transporting handguns under
20 subsection (a) shall maintain records of receipts, sale, own-
21 ership, and possession of handguns in such form as the Sec-
22 retary may provide and permit the Secretary to enter the
23 premises at reasonable times for the purpose of inspecting
24 such records.

25 “(c) The provisions of this chapter shall not apply with

1 respect to the importation, sale, purchase, transfer, receipt,
2 or transportation of a handgun manufactured before 1890,
3 or any other handgun which the Secretary determines is
4 unserviceable, not restorable to firing condition, and intended
5 for use as a curio, museum piece, or collectors' item.

6 **“§ 1095. Voluntary delivery to law enforcement agency;**
7 **reimbursement**

8 “(a) A person may at any time deliver to any Federal,
9 State, or local law enforcement agency designated by the
10 Secretary a handgun owned or possessed by such person. The
11 Secretary shall arrange with each agency designated to re-
12 ceive handguns for the transfer, destruction, or other disposi-
13 tion of all handguns delivered under this section.

14 “(b) Upon proof of lawful acquisition and ownership by
15 a person delivering a handgun to a law enforcement agency
16 under this section, within one hundred and eighty days of
17 the effective date of this chapter, the owner of the handgun
18 shall be entitled to receive from the United States a payment
19 equal to the fair market value of the handgun or \$25,
20 whichever is more. The Secretary shall provide for the pay-
21 ment, directly or indirectly, through Federal, State, and
22 local law enforcement agencies, of the amounts to which own-
23 ers of handguns delivered under this section are entitled.

24 “(c) The amounts authorized in subsection (b) of this
25 section shall be paid out of the fees collected under section

1 1092 (a) of this chapter to the extent that such fees are
2 sufficient for this purpose. The remainder of amounts au-
3 thorized in subsection (b) of this section shall be paid out
4 of general revenues.

5 **“§ 1096. Rules and regulations**

6 “(a) The Secretary may prescribe such rules and regu-
7 lations as he deems necessary to carry out the provisions of
8 this chapter.

9 **“§ 1097. Effect on State law**

10 “No provision of this chapter shall be construed as
11 indicating an intent on the part of the Congress to occupy
12 the field in which such provision operates to the exclusion
13 of the law of any State on the same subject, unless there
14 is a direct and positive conflict between such provision
15 and the law of the State so that the two cannot be reconciled
16 or consistently stand together.

17 **“§ 1098. Separability**

18 “If any provision of this chapter or the application
19 thereof to any person or circumstance is held invalid, the
20 remainder of the chapter and the application of such provision
21 to other persons not similarly situated or to other circum-
22 stances shall not be affected thereby.

23 **“§ 1099. Assistance to the Secretary**

24 “When requested by the Secretary, Federal departments

1 and agencies shall assist the Secretary in the administration
2 of this title.

3 **“§ 1100. Appropriations**

4 “There are authorized to be appropriated such sums as
5 are necessary to carry out the purposes of this chapter.

6 **“§ 1101. Definitions**

7 “As used in this chapter—

8 “(1) The term ‘person’ and the term ‘whoever’ includes
9 any individual, corporation, company, association, firm, part-
10 nership, club, society, or joint-stock company.

11 “(2) The term ‘importer’ means any person engaged
12 in the business of importing or bringing handguns into the
13 United States for purposes of sale or distribution; and the
14 term ‘licensed importer’ means any such person licensed
15 under the provisions of chapter 44 of this title.

16 “(3) The term ‘manufacturer’ means any person en-
17 gaged in the manufacture or assembly of handguns for the
18 purposes of sale or distribution; and the term ‘licensed manu-
19 facturer’ means any such person licensed under the pro-
20 visions of chapter 44 of this title.

21 “(4) The term ‘dealer’ means (A) any person engaged
22 in the business of selling handguns at wholesale or retail,
23 (B) any person engaged in the business of repairing hand-
24 guns or of making or fitting special barrels, or trigger
25 mechanisms to handguns, or (C) any person who is a pawn-

1 broker. The term 'licensed dealer' means any dealer who
2 is licensed under the provisions of chapter 44 of this title.

3 “(5) The term 'fair market value' means the prevailing
4 price on the open market for such weapons immediately prior
5 to enactment or at the time of voluntary transfer under sec-
6 tion 1095 of this chapter, whichever is higher, the method
7 of establishing such prices to be prescribed by the Secretary
8 in accordance with his authority under section 1096.

9 “(6) The term 'Secretary' or 'Secretary of the Treas-
10 ury' means the Secretary of the Treasury or his delegate.

11 “(7) The term 'handgun' means any weapon—

12 “(A) designed or redesigned, or made, or remade,
13 and intended to be fired while held in one hand;

14 “(B) having a barrel less than ten inches in length;
15 and

16 “(C) designed or redesigned, or made or remade,
17 to use the energy of an explosive to expel a projectile
18 or projectiles through a smooth or rifled bore.

19 “(8) The term 'handgun ammunition' means ammuni-
20 tion or cartridge cases, or bullets designed for use primarily
21 in handguns.

22 “(9) The term 'pistol club' means a club organized for
23 target shooting with handguns or to use handguns for sport-
24 ing or other recreational purposes.

1 “(10) The term ‘licensed pistol club’ means a pistol
2 club which is licensed under this chapter.”

3 SEC. 3. The enforcement and administration of the
4 amendment made by this Act shall be vested in the Secre-
5 tary of the Treasury.

6 SEC. 4. Nothing in this Act or the amendment made
7 thereby shall be construed as modifying or affecting any
8 provision of—

9 (a) the National Firearms Act (chapter 53 of the
10 Internal Revenue Code of 1954) ;

11 (b) section 414 of the Mutual Security Act of 1954
12 (22 U.S.C. 1934), as amended, relating to munitions
13 control; or

14 (c) section 1715 of title 18, United States Code,
15 relating to nonmailable firearms.

16 SEC. 5. The provisions of this Act shall take effect one
17 hundred and eighty days following the date of enactment.

94TH CONGRESS
1ST SESSION

H. R. 354

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. DELLUMS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prevent lawless and irresponsible use of firearms, by requiring national registration of firearms, by establishing minimum standards for licensing possession of firearms, and to prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Gun Control Registra-
4 tion, and Licensing Act of 1975".

5 TITLE I—REGISTRATION OF FIREARMS

6 SEC. 101. Title 18, United States Code, is amended by
7 inserting after chapter 44 the following new chapter:

I—O

1 **"Chapter 44A.—REGISTRATION OF FIREARMS**

"Sec.

"931. Definitions.

"932. Registration.

"933. Sales of firearms and ammunition.

"934. Penalties.

"935. Disposition of firearms to Secretary.

"936. Rules and regulations; periods of amnesty.

"937. Disclosure of information.

"938. Assistance to Secretary.

2 **"§ 931. Definitions**

3 **"As used in this chapter—**

4 **"(1) The term 'firearm' means a weapon (including**
5 **a starter gun) which will or is designed to or may readily**
6 **be converted to expel a projectile by the action of an explo-**
7 **sive, but shall not include a firearm as that term is defined**
8 **in chapter 53 of the Internal Revenue Code of 1954 or an**
9 **antique firearm as defined in section 921 of this title.**

10 **"(2) The term 'Secretary' means the Secretary of the**
11 **Treasury.**

12 **"(3) The term 'licensed dealer' means any importer,**
13 **manufacturer, or dealer licensed under the provisions of**
14 **chapter 44 of this title.**

15 **"(4) The term 'ammunition' means ammunition or**
16 **cartridge cases, primers, bullets, or propellant powder de-**
17 **signed for use in any firearm.**

18 **"(5) The term 'sell' means give, bequeath, or other-**
19 **wise transfer ownership.**

20 **"(6) The term 'possess' means asserting ownership**

1 or having custody and control not subject to termination by
2 another or after a fixed period of time.

3 **“§ 932. Registration**

4 “(a) It is unlawful for a person knowingly to possess a
5 firearm not registered in accordance with the provisions of
6 this section. This subsection shall not apply with respect to—

7 “(1) a firearm, previously unregistered, if such
8 firearm is held by a licensed dealer for purposes of sale:
9 *Provided*, That records of such firearms are kept as may
10 be required by the Secretary;

11 “(2) a firearm possessed by a person on the effective
12 date of this Act and continuously by such person
13 thereafter for a period not to exceed one hundred and
14 eighty days;

15 “(3) a firearm, previously unregistered, possessed
16 by (A) the United States or any department or agency
17 thereof, or (B) any State or political subdivision
18 thereof.

19 “(b) (1) A licensed dealer who sells a firearm to a
20 person in whose possession the firearm must be registered
21 shall require from the purchaser a completed application for
22 the registration of the firearm and shall file the application
23 with the Secretary at the time of sale.

24 “(2) When a person other than a licensed dealer sells

1 a firearm, the purchaser shall file an application for its
2 registration with the Secretary prior to receipt of the firearm.

3 “(3) A person who possesses a firearm on the effective
4 date of this Act shall, unless he sooner sells the firearm, file
5 an application for registration of the firearm with the Secre-
6 tary within one hundred and eighty days.

7 “(c) An application for registration of a firearm shall
8 be in a form to be prescribed by the Secretary, which shall
9 include at least the following:

10 “(1) the name, address, date and place of birth,
11 and social security or taxpayer identification number of
12 the applicant;

13 “(2) the name of the manufacturer, the caliber or
14 gage, the model and the type, and the serial number
15 of the firearm; and

16 “(3) the date, the place, and the name and address
17 of the person from whom the firearm was obtained, the
18 number of such person's certificate of registration of such
19 firearm, if any, and, if such person is a licensed dealer,
20 his license number.

21 “(d) An application for registration of a firearm shall
22 be in duplicate. The original application shall be signed by
23 the applicant and filed with the Secretary, together with a
24 fee of \$1, either in person or by certified mail, return receipt
25 requested, in such place as the Secretary by regulation may

1 provide. The duplicate shall be retained by the applicant as
2 temporary evidence of registration. The Secretary, after
3 receipt of a duly filed completed application for registra-
4 tion, shall send to the applicant a numbered certificate of
5 registration identifying such person as the registered owner
6 of such firearm.

7 “(e) Registration of a firearm shall expire upon any
8 change of the registrant’s name or residence unless the
9 registrant shall notify the Secretary within thirty days of
10 such change.

11 “(f) It is unlawful for a person to carry a firearm re-
12 quired to be registered by this chapter without having with
13 him a certificate of registration, or if such certificate has
14 not been received, temporary evidence of registration, or
15 to refuse to exhibit such certificate or temporary evidence
16 upon demand of a law enforcement officer.

17 **“§ 933. Sales of firearms and ammunition**

18 “(a) A registrant of a firearm who sells the firearm
19 shall, within five days of the sale, return to the Secretary his
20 certificate of registration, noting on it the name and residence
21 address of the transferee, and the date of delivery.

22 (b) Whoever acquires a firearm required to be regis-
23 tered by this chapter shall require the seller to exhibit a
24 certificate of registration, and shall note the number of the
25 certificate on his application for registration.

1 “(c) A licensed dealer shall not take or receive a fire-
2 arm by way of pledge or pawn without also taking and re-
3 taining during the term of such pledge or pawn the certificate
4 of registration. If such pledge or pawn is not redeemed the
5 dealer shall return the certificate of registration to the Secre-
6 tary and register the firearm in his own name.

7 “(d) The executor or administrator of an estate con-
8 taining a registered firearm shall promptly notify the Secre-
9 tary of the death of the registrant and shall, at the time of
10 any transfer of the firearm, return the certificate of registra-
11 tion to the Secretary as provided in subsection (a). The
12 executor or administrator of an estate containing an un-
13 registered firearm shall promptly register the firearm, with-
14 out penalty for any prior failure to register it.

15 “(e) Whoever possesses a firearm shall within ten
16 days notify the Secretary of a loss, theft, or destruction of
17 the firearm, and, after such notice, of any recovery.

18 “(f) A licensed dealer shall not sell ammunition to a
19 person for use in a firearm required to be registered without
20 requiring the purchaser to exhibit a certificate of registration
21 or temporary evidence of registration of a firearm which uses
22 such ammunition, and noting the certificate number or date
23 of the temporary evidence of registration on the records re-
24 quired to be maintained by the dealer pursuant to section
25 923 (d) of this title.

1 **“§ 934. Penalties**

2 “(a) Whoever violates a provision of section 932 or
3 933 shall be punished by imprisonment not to exceed two
4 years, or by a fine not to exceed \$2,000, or both.

5 “(b) Whoever knowingly falsifies any information re-
6 quired to be filed with the Secretary pursuant to this chapter,
7 or forges or alters any certificate of registration or temporary
8 evidence of registration, shall be punished by imprisonment
9 not to exceed five years or a fine not to exceed \$10,000, or
10 both.

11 “(c) Except as provided in subsection (b), no infor-
12 mation or evidence obtained from an application or certifi-
13 cate of registration required to be submitted or retained by
14 a natural person in order to comply with any provision of
15 this chapter or regulations issued by the Secretary shall be
16 used as evidence against that person in a criminal proceeding
17 with respect to a violation of law occurring prior to or con-
18 currently with the filing of the application for registration
19 containing the information or evidence.

20 **“§ 935. Disposition of firearms to Secretary**

21 “(a) The Secretary is authorized to pay reasonable
22 value for firearms voluntarily relinquished to him.

23 “(b) A person who lawfully possessed a firearm prior
24 to the operative effect of any provision of this title, and who
25 becomes ineligible to possess such firearm by virtue of such

1 provision, shall receive reasonable compensation for the
2 firearm upon its surrender to the Secretary.

3 **“§ 936. Rules and regulations; periods of amnesty**

4 “The Secretary may prescribe such rules and regulations
5 as he deems reasonably necessary to carry out the provisions
6 of this chapter, including reasonable requirements for the
7 marking of firearms that do not have serial numbers, and
8 may declare periods of amnesty for the registration of fire-
9 arms.

10 **“§ 937. Disclosure of information**

11 “Information contained on any certificate of registration
12 or application therefor shall not be disclosed except to the
13 National Crime Information Center established by the Fed-
14 eral Bureau of Investigation, and to law enforcement officers
15 requiring such information in pursuit of their official duties.

16 **“§ 938. Assistance to Secretary**

17 “When requested by the Secretary, Federal departments
18 and agencies shall assist the Secretary in the administration
19 of this title.”

20 SEC. 102. Section 5 of the Interest Equalization Tax
21 Extension Act of 1969 is repealed.

22 **TITLE II—GUN PERMITS**

23 SEC. 201. Chapter 44 of title 18, United States Code, is
24 amended by inserting after section 923 the following new
25 section:

1 **“§ 923A. State permit systems; Federal gun permits**

2 “(a) The Secretary shall determine which States or
3 political subdivisions of States have enacted or adopted ade-
4 quate permit systems for the possession of firearms and shall
5 publish in the Federal Register the names of such States and
6 political subdivisions.

7 “(b) An adequate permit system shall include provision
8 for—

9 “(1) identification of the permit holder appearing
10 on the permit, including names, address, age, and signa-
11 ture or photograph;

12 “(2) restrictions on issuance of a permit to a per-
13 son who is under indictment or who has been convicted
14 in any court of a crime punishable by imprisonment for
15 a term exceeding one year, or who is a fugitive from
16 justice;

17 “(3) restrictions on issuance of a permit to a per-
18 son who, by reason of age, mental condition, alcoholism,
19 drug addiction, or previous violations of firearms laws
20 cannot be relied upon to possess or use firearms safely
21 and responsibly;

22 “(4) means of investigation of applicants for per-
23 mits to determine their eligibility under subparagraphs
24 (2) and (3), including filing with the issuing agency

1 a complete set of fingerprints and a recent photograph
2 of the applicant; and

3 “(5) prohibition of possession of firearms or am-
4 munition by any person who has not been issued such a
5 permit.

6 “(c) After September 1, 1976, it shall be unlawful for
7 any person to sell or otherwise transfer any firearm or am-
8 munition to any person (other than a licensed importer,
9 licensed manufacturer, or licensed dealer) unless—

10 “(1) the sale or transfer is not prohibited by any
11 other provision of this chapter; and

12 “(2) the purchaser or transferee exhibits a valid
13 permit issued to him by a State or political subdivision
14 having an adequate permit system, or the purchaser or
15 transferee exhibits a valid Federal gun permit issued
16 in accordance with subsections (d) and (e).

17 “(d) A licensed dealer shall issue a Federal gun permit
18 to a person upon presentation of—

19 “(1) a valid official document issued by the per-
20 son’s State or political subdivision, showing his name,
21 current address, age, and signature or photograph;

22 “(2) a statement, in a form to be prescribed by
23 the Secretary and dated within six months and signed
24 by the chief law enforcement officer (or his delegate)
25 of the locality of residence of the person, that to the

1 best of that officer's knowledge the person is not under
2 indictment, has not been convicted in any court of a
3 crime punishable by imprisonment for a term exceeding
4 one year, is not a fugitive from justice, and is not other-
5 wise prohibited by any provision of Federal, State, or
6 local law from possessing firearms and ammunition;

7 “(3) a statement in a form to be prescribed by
8 the Secretary, dated within six months and signed by
9 a licensed physician, that in his professional opinion
10 such person is mentally and physically capable of pos-
11 sessing and using a firearm safely and responsibly;

12 “(4) a statement signed by the person in a form
13 to be prescribed by the Secretary, that he may lawfully
14 possess firearms and ammunition under the laws of the
15 United States and of the State and political subdivision
16 of his residence;

17 “(5) a complete set of such person's fingerprints
18 certified to by a Federal, State, or local law enforcement
19 officer, and a photograph reasonably identifying the
20 person; and

21 “(6) a fee of \$1 payable to the issuing dealer.

22 “(e) Federal gun permits shall be issued in such form
23 as the Secretary may prescribe, and shall be valid for a
24 period not to exceed three years. A dealer shall maintain
25 a record of all permits issued by him as part of the records

1 required to be maintained by section 923 (d) of this chapter,
2 and shall forward to the Secretary the documents described
3 in subparagraphs (d) (2) - (d) (5).

4 “(f) Any person denied a Federal gun permit under
5 subsection (d) may apply directly to the Secretary, in the
6 manner prescribed by regulation of the Secretary, for the
7 issuance of a Federal gun permit.

8 “(g) Unless otherwise prohibited by this chapter, a
9 licensed dealer may ship a firearm or ammunition to a person
10 only if the dealer confirms that the purchaser has been issued
11 a valid permit pursuant to an adequate State permit system,
12 a Federal gun permit, or a Federal dealer's license, and notes
13 the number of such permit or license in the records required
14 to be kept by section 923 of this chapter.

15 “(h) After September 1, 1977, no person may possess
16 a firearm or ammunition without (i) a State or local permit
17 from the State or locality in which he resides if such
18 State or locality has an adequate permit system, or (ii) a
19 Federal gun permit.

20 “(i) Determinations of adequate permit systems and de-
21 nials by the Secretary of Federal gun permits shall not be
22 subject to the provisions of chapter 5, title 5, United States
23 Code, but actions of the Secretary shall be reviewable de
24 novo pursuant to chapter 7, title 5, United States Code, in

1 an action instituted by any person, State, or political sub-
2 division adversely affected."

3 SEC. 202. The analysis of chapter 44 of title 18, United
4 States Code, is amended by inserting immediately after
"923. Licensing.",
5 the following:

"923A. State permit systems; Federal gun permits."

6 SEC. 203. Nothing in this title shall modify, limit, or
7 otherwise affect the provisions of chapter 50A of title 18,
8 United States Code (relating to handgun restrictions).

9 TITLE III—HANDGUN CONTROLS

10 SEC. 301. The Congress hereby finds and declares—

11 (a) that annual sales of handguns in the United
12 States have quadrupled since 1963, bringing the total
13 number of handguns in private hands to approximately
14 twenty-four million by the end of 1968; and

15 (b) that handguns play a major role, and a role dis-
16 proportionate to their number in comparison with long
17 guns, in the commission of homicide, aggravated as-
18 sault, and armed robbery, and that the percentage of vio-
19 lent crimes in which handguns are used is increasing; and

20 (c) that more than one-half of all handguns are ac-
21 quired secondhand and that licensing and restrictions
22 on sale of new handguns will not significantly reduce
23 handgun crime and handgun violence; and

1 (d) that with few exceptions handguns are not used
 2 for sporting or recreational purposes and that such pur-
 3 poses do not require keeping of handguns in private
 4 homes; and

5 (e) that handguns in the home are of less value
 6 than is commonly thought in defending against intruders
 7 and that such defensive purposes can be adequately ac-
 8 complished by other means; and

9 (f) that violent crimes perpetrated with handguns
 10 constitute a burden upon and interfere with interstate and
 11 foreign commerce and threaten the internal security and
 12 domestic tranquillity of the Nation; and

13 (g) that a national firearms policy which restricts
 14 the availability of handguns for nonlaw enforcement and
 15 nonmilitary purposes will significantly reduce violent
 16 crime, reduce deaths from handguns, and reduce other
 17 handgun violence in the United States.

18 SEC. 302. Title 18, United States Code, is amended by
 19 inserting immediately after chapter 50 thereof the following
 20 new chapter:

21 "Chapter 50A.—HANDGUNS

"Sec.

"1091. Unlawful acts.

"1092. Licensing.

"1093. Penalties.

"1094. Exceptions.

"1095. Voluntary delivery to law enforcement agency; reimbursement.

"1096. Rules and regulations.

"1097. Definitions.

1 **"§ 1091. Unlawful acts**

2 “(a) Except as provided in section 1094 of this
3 chapter and in subsection (c) of this section, it shall be un-
4 lawful for any person to import, manufacture, sell, buy,
5 transfer, receive, or transport any handgun and handgun
6 ammunition.

7 “(b) Except as provided in section 1094 of this chap-
8 ter and in subsection (c) of this section, it shall be unlawful,
9 after one hundred and eighty days from the effective date of
10 this chapter, for any person to own or possess any handgun
11 or handgun ammunition.

12 “(c) The Secretary may, consistent with public safety
13 and necessity, exempt from the operation of subsection (a)
14 and subsection (b) of this section such importation, manu-
15 facture, sale, purchase, transfer, receipt, possession, owner-
16 ship, or transportation of handguns and handgun ammunition
17 by importers, manufacturers, or dealers, licensed under chap-
18 ter 44 of this title, and by pistol clubs licensed under this
19 chapter, as may in his judgment be required for the operation
20 of such pistol clubs or for purposes in section 1094 of this
21 chapter.

22 “(d) It shall be unlawful for any licensed importer,
23 manufacturer, or dealer to sell or otherwise transfer any hand-
24 gun or handgun ammunition to any person, except another
25 licensed importer, manufacturer, or dealer, without presenta-

1 tion by the purchaser or recipient of written verification that
2 the receipt or purchase is being made by or on behalf of a
3 person or government agency eligible to obtain and possess
4 handguns under section 1094 of this chapter or a pistol club
5 licensed under this chapter.

6 “(e) Every manufacturer, importer, and dealer who
7 sells or otherwise transfers handguns or handgun ammuni-
8 tion shall maintain records of sale or transfer of handguns
9 and handgun ammunition in such form as the Secretary
10 may by regulations provide and shall permit the Secretary
11 to enter the premises at reasonable times for the purpose
12 of inspecting such records.

13 **“§ 1092. Licensing**

14 “(a) A pistol club desiring to be licensed under this
15 chapter shall file an application for such license with the
16 Secretary. The application shall be in such form and con-
17 tain such information as the Secretary shall by regulation
18 prescribe. The fee for such license shall be \$25 per year.

19 “(b) Any importer, manufacturer, or dealer desiring to
20 be licensed under this chapter shall apply as provided in
21 chapter 44 of this title.

22 “(c) Any application submitted under subsection (a)
23 shall be approved if—

24 “(1) no member of the pistol club is a person

1 whose membership and participation in the club is in
2 violation of any applicable State laws;

3 “(2) no member of the pistol club is prohibited
4 from transporting, shipping, or receiving firearms or
5 ammunition in interstate or foreign commerce under
6 section 922 (g) or (h) of this title;

7 “(3) no member of the pistol club has willfully
8 violated any of the provisions of this chapter or of chap-
9 ter 44 of this title or any regulations issued thereunder;

10 “(4) the pistol club has not willfully failed to dis-
11 close any material information required, or has not
12 made any false statement as to any material fact in
13 connection with its application;

14 “(5) the club has been founded and operated for
15 bona fide target or sport shooting and other legitimate
16 recreational purposes; and

17 “(6) the pistol club has premises from which it
18 operates and—

19 “(A) maintains possession and control of the
20 handguns used by its members, and

21 “(B) (i) has procedures and facilities for keep-
22 ing such handguns in a secure place, under the con-
23 trol of the club's chief officer, at all times when they
24 are not being used for target shooting or other sport-
25 ing or recreational purposes, or

1 “(ii) has effected arrangements for the stor-
2 age of the members’ handguns in a facility of the
3 local police department or other nearby law en-
4 forcement agency.

5 “(d) (1) The Secretary must approve or deny an ap-
6 plication for a license with the sixty-day period beginning
7 on the date it is received. If the Secretary fails to act within
8 such period, the applicant may file an action under section
9 1361 of title 28 to compel the Secretary to act. If the Secre-
10 tary approves an applicant’s application, such applicant shall
11 be issued a license upon payment of the prescribed fee.

12 “(2) The Secretary may, after notice and opportunity
13 for hearing, revoke any license issued under this section if
14 the holder of such license has violated any provision of this
15 chapter or of chapter 44 of this title or any rule or regula-
16 tions prescribed by the Secretary under such chapters. The
17 Secretary’s action under this paragraph may be reviewed
18 only as provided in subsection (e) of this section.

19 “(e) (1) Any person whose application for a license
20 is denied and any holder of a license which is revoked shall
21 receive a written notice from the Secretary stating specifi-
22 cally the grounds upon which the application was denied or
23 upon which the license was revoked. Any notice of revoca-
24 tion of a license shall be given to the holder of such license
25 before the effective date of the revocation.

1 “(2) If the Secretary denies an application for, or
2 revokes, a license, he shall, upon request by the aggrieved
3 party, promptly hold a hearing to review his denial or revo-
4 cation. In the case of a revocation of a license, the Secretary
5 shall upon the request of the holder of the license stay the
6 effective date of the revocation. A hearing held under this
7 paragraph shall be held at a location convenient to the
8 aggrieved party.

9 “(3) If after a hearing held under paragraph (2) the
10 Secretary decides not to reverse his decision to deny an
11 application or revoke a license, the Secretary shall give
12 notice of his decision to the aggrieved party. The aggrieved
13 party may at any time within sixty days after the date notice
14 was given under this paragraph file a petition with the
15 United States district court for the district in which he
16 resides or has his principal place of business for a judicial
17 review of such denial or revocation. In a proceeding con-
18 ducted under this subsection, the court may consider any
19 evidence submitted by the parties to the proceeding. If the
20 court decides that the Secretary was not authorized to deny
21 the application or to revoke the license, the court shall order
22 the Secretary to take such action as may be necessary to
23 comply with the judgment of the court.

24 “(f) Each licensed pistol club shall maintain such rec-
25 ords of receipt, sale, or other disposition, of handguns at such

1 place, for such period, and in such form as the Secretary
2 may by regulations prescribe. Such pistol clubs shall make
3 such records available for inspection at all reasonable times,
4 and shall submit to the Secretary such reports and informa-
5 tion with respect to such records and the contents thereof as
6 he shall by regulations prescribe. The Secretary may enter at
7 reasonable times the premises (including places of storage)
8 of any pistol club for the purpose of inspecting or examining
9 (1) any records of documents required to be kept by such
10 pistol club under the provisions of this chapter or chapter 44
11 of this title and regulations issued under such chapters, and
12 (2) any handguns or ammunition kept or stored by such
13 pistol club at such premises.

14 “(g) Licenses issued under the provisions of subsection
15 (c) of this section shall be kept posted and kept available
16 for inspection on the premises covered by the license.

17 “(h) The loss or theft of any firearms shall be
18 reported by the person from whose possession it was lost or
19 stolen, within thirty days after such loss or theft is dis-
20 covered, to the Secretary. Such report shall include such
21 information as the Secretary by regulation shall prescribe,
22 including, without limitation, the date and place of theft
23 or loss.

24 “§ 1093. Penalties

25 “(a) Whoever violates any provision of section 1091

1 of this chapter shall be fined not more than \$5,000, or im-
2 prisoned not more than five years, or both, and shall be-
3 come eligible for parole as the Board of Parole shall
4 determine.

5 “(b) Whoever knowingly makes any false statement
6 or representation with respect to the information required
7 by the provisions of this chapter to be kept in the records
8 of an importer, manufacturer, dealer, or pistol club, licensed
9 under this chapter, or in applying for a pistol club license
10 under the provisions of this chapter, shall be fined not more
11 than \$5,000, or imprisoned not more than five years, or
12 both, and shall become eligible for parole as the Board of
13 Parole shall determine.

14 “(c) Any handgun or handgun ammunition involved
15 or used in, or intended to be used in, any violation of the
16 provisions of this chapter or chapter 44 of this title or any
17 rule or regulation promulgated thereunder, or any violation
18 of any other criminal law of the United States, shall be sub-
19 ject to seizure and forfeiture and all provisions of the Inter-
20 nal Revenue Code of 1954 relating to the seizure, forfeiture,
21 and disposition of firearms shall, so far as applicable, extend
22 to seizures and forfeitures under the provisions of this
23 chapter.

24 “(d) Except as provided in subsection (b), no infor-
mation or evidence obtained from an application or certifi-

1 cate of registration required to be submitted or retained by
2 a natural person in order to comply with any provision of
3 this chapter or regulations issued by the Secretary shall be
4 used, directly or indirectly, as evidence against that person
5 in a criminal proceeding with respect to a violation of law
6 occurring prior to or concurrently with the filing of the ap-
7 plication for registration containing the information or
8 evidence.

9 "§ 1094. Exceptions

10 " (a) The provisions of this chapter shall not apply with
11 respect to the importation, manufacture, sale, purchase, trans-
12 fer, receipt, or transportation of any handgun or handgun
13 ammunition which the Secretary determines is being im-
14 ported or manufactured for, sold, or transferred to, pur-
15 chased, received, owned, possessed, or transported by, or is-
16 sued for the use of—

17 " (1) a professional security guard service which is
18 licensed by the State in which the handgun is to be used,
19 and which is authorized to provide armed security guards
20 for hire; or

21 " (2) the United States or any department or
22 agency thereof or any State or any department, agency,
23 or political subdivision thereof.

24 " (b) Every security guard service purchasing, receiv-
25 ing, owning, possessing, or transporting handguns under sub-

1 section (a) shall maintain records of receipt, sale, owner-
2 ship, and possession of handguns in such form as the Secre-
3 tary may provide and permit the Secretary to enter the prem-
4 ises at reasonable times for the purpose of inspecting such
5 records.

6 “(c) The provisions of this chapter shall not apply
7 with respect to the importation, sale, purchase, transfer,
8 receipt, or transportation of a handgun manufactured be-
9 fore 1890, or any other handgun which the Secretary de-
10 termines is unserviceable, not restorable to firing condition,
11 and intended for use as a curio, museum piece, or collectors’
12 item.

13 **“§ 1095. Voluntary delivery to law enforcement agency;**
14 **reimbursement**

15 “(a) A person may at any time deliver to any Fed-
16 eral, State, or local law enforcement agency designated by
17 the Secretary a handgun owned or possessed by such per-
18 son. The Secretary shall arrange with each agency desig-
19 nated to receive handguns for the transfer, destruction, or
20 other disposition of all handguns delivered under this sec-
21 tion.

22 “(b) Upon proof of lawful acquisition and ownership
23 by a person delivering a handgun to a law enforcement
24 agency under this section, within one hundred and eighty days
of the effective date of this chapter, the owner of the hand-

1 gun shall be entitled to receive from the United States a
2 payment equal to the fair market value of the handgun or
3 \$25, whichever is more. The Secretary shall provide for the
4 payment, directly or indirectly, through Federal, State, and
5 local law enforcement agencies, of the amounts to which
6 owners of handguns delivered under this section are entitled.

7 “(c) The amounts authorized in subsection (b) of this
8 section shall be paid out of the fees collected under
9 section 1092 (a) of this chapter to the extent that such fees
10 are sufficient for this purpose. The remainder of amounts
11 authorized in subsection (b) of this section shall be paid
12 out of general revenues.

13 **“§ 1096. Rules and regulations**

14 “(a) The Secretary may prescribe such rules and regu-
15 lations as he deems necessary to carry out the provisions of
16 this chapter.

17 **“§ 1097. Effect on State law**

18 “No provision of this chapter shall be construed as
19 indicating an intent on the part of the Congress to occupy
20 the field in which such provision operates to the exclusion
21 of the law of any State on the same subject, unless there is
22 a direct and positive conflict between such provision and the
23 law of the State so that the two cannot be reconciled or con-
24 sistently stand together.

1 **"§ 1098. Separability**

2 "If any provision of this chapter or the application there-
3 of to any person or circumstance is held invalid, the re-
4 mainder of the chapter and the application of such provision
5 to other persons not similarly situated or to other circum-
6 stances shall not be affected thereby.

7 **"§ 1099. Assistance to the Secretary**

8 "When requested by the Secretary, Federal departments
9 and agencies shall assist the Secretary in the administration
10 of this title.

11 **"§ 1100. Appropriations**

12 "There are authorized to be appropriated such sums as
13 are necessary to carry out the purposes of this chapter.

14 **"§ 1101. Definitions**

15 "As used in this chapter—

16 "(1) The term 'person' and the term 'whoever' include
17 any individual, corporation, company, association, firm part-
18 nership, club, society, or joint-stock company.

19 "(2) The term 'importer' means any person engaged in
20 the business of importing or bringing handguns into the
21 United States for purposes of sale or distribution; and the
22 term 'licensed importer' means any such person licensed
23 under the provisions of chapter 44 of this title.

24 "(3) The term 'manufacturer' means any person en-
gaged in the manufacture or assembly of handguns for the

1 purposes of sale or distribution ; and the term 'licensed manu-
2 facturer' means any such person licensed under the provisions
3 of chapter 44 of this title.

4 “(4) The term ‘dealer’ means (A) any person engaged
5 in the business of selling handguns at wholesale or retail,
6 (B) any person engaged in the business of repairing hand-
7 guns or of making or fitting special barrels, or trigger mech-
8 anisms to handguns, or (C) any person who is a pawn-
9 broker. The term ‘licensed dealer’ means any dealer who is
10 licensed under the provisions of chapter 44 of this title.

11 “(5) The term ‘fair market value’ means the prevailing
12 price on the open market for such weapons immediately prior
13 to enactment or at the time of voluntary transfer under sec-
14 tion 1095 of this chapter, whichever is higher, the method
15 of establishing such prices to be prescribed by the Secretary
16 in accordance with his authority under section 1096.

17 “(6) The term ‘Secretary’ or ‘Secretary of the Treasury’
18 means the Secretary of the Treasury or his delegate.

19 “(7) The term ‘handgun’ means any weapon—

20 “(A) designed or redesigned, or made or remade,
21 and intended to be fired while held in one hand;

22 “(B) having a barrel less than ten inches in length;
23 and

24 “(C) designed or redesigned, or made or remade,

1 to use the energy of an explosive to expel a projectile
2 or projectiles through a smooth or rifled bore.

3 “(8) The term ‘handgun ammunition’ means ammuni-
4 tion or cartridge cases, or bullets designed for use primarily
5 in handguns.

6 “(9) The term ‘pistol club’ means a club organized for
7 target shooting with handguns or to use handguns for sport-
8 ing or other recreational purposes.

9 “(10) The term ‘licensed pistol club’ means a pistol
10 club which is licensed under this chapter.”

11 SEC. 3. The enforcement and administration of the
12 amendment made by this Act shall be vested in the Secretary
13 of the Treasury.

14 SEC. 4. Nothing in this Act or the amendment made
15 thereby shall be construed as modifying or affecting any
16 provision of—

17 (a) the National Firearms Act (chapter 53 of the
18 Internal Revenue Code of 1954);

19 (b) section 414 of the Mutual Security Act of 1954
20 (22 U.S.C. 1934), as amended, relating to munitions
21 control; or

22 (c) section 1715 of title 18, United States Code,
23 relating to nonmailable firearms.

24 SEC. 5. The provisions of this Act shall take effect one
25 hundred and eighty days following the date of enactment.

94TH CONGRESS
1ST SESSION

H. R. 465

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. FUQUA introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To repeal the Gun Control Act of 1968, to reenact the Federal Firearms Act, to make the use of a firearm to commit certain felonies a Federal crime where that use violates State law, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That (a) chapter 44 of title 18 of the United States Code,
4 known as the Gun Control Act of 1968, is hereby repealed.

5 SEC. 2. (a) The Federal Firearms Act is hereby re-
6 vived and reenacted as in effect immediately before its repeal.

7. (b) Chapter 53 of the Internal Revenue Code of 1954
8 (relating to machineguns and certain other firearms) is

1 amended to read as in effect immediately before the enact-
2 ment of the Gun Control Act of 1968.

3 SEC. 3. (a) Part I of title 18, United States Code, is
4 amended by adding immediately after chapter 115 the fol-
5 lowing new chapter:

6 **"Chapter 116.—USE OF FIREARMS IN THE COM-**
7 **MISSION OF CERTAIN FELONIES**

"Sec.

"2401. Definitions.

"2402. Use of firearms in the commission of certain felonies.

8 **"§ 2401. Definitions**

9 "As used in this chapter—

10 "'Firearm' means any weapon (including a starter gun)
11 which will or is designed to or may readily be converted to
12 expel a projectile by the action of an explosive; the frame or
13 receiver of any such weapon; or any firearm muffler or fire-
14 arm silencer; or any destructive device.

15 "'Destructive device' means any explosive, incendiary,
16 or poison gas bomb, grenade, mine, rocket, missile, or simi-
17 lar device; and includes any type of weapon which will or
18 is designed to or may readily be converted to expel a pro-
19 jectile by the action of any explosive and having any barrel
20 with a more of one-half inch or more in diameter.

21 **"§ 2402. Use of firearms in the commission of certain**
22 **felonies**

23 **"Whoever—**

3

1 “(1) uses a firearm to commit any felony which
2 may be prosecuted in a court of the United States, or

3 “(2) carries a firearm unlawfully during the com-
4 mission of any felony which may be prosecuted in a
5 court of the United States, or

6 “(3) ~~uses a firearm to commit~~ ^{uses a firearm to} commit any felony, or carries
7 a firearm unlawfully during the commission of any
8 felony, which use or carrying for that purpose is un-
9 lawful according to the law of the State in which it
10 occurs, shall, in addition to the punishment provided for
11 the commission of the felony, be sentenced to a term of
12 imprisonment for not less than one year nor more than
13 ten years. In the case of his second or subsequent con-
14 viction under this subsection, that person shall be sen-
15 tenced to a term of imprisonment for not less than two
16 nor more than twenty-five years and, notwithstanding
17 any other provision of law, the court shall not suspend
18 this sentence in the case of a second or subsequent con-
19 viction of that person or give him a probationary sen-
20 tence, nor shall the term of imprisonment imposed under
21 this subsection run concurrently with any term of im-
22 prisonment imposed for the commission of the felony.”

23 (b) The analysis of part I of title 18, United States
24 Code, is amended by inserting immediately before the last
25 item the following:

“116. Use of firearms in the commission of certain felonies..... 2402”

1 SEC. 4. This Act shall apply only with respect to those
2 felonies committed after the date of the enactment of this
3 Act.

94TH CONGRESS
1ST SESSION

H. R. 638

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. MIKVA introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, where authorized, licensed importers, manufacturers, dealers, and pistol clubs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Handgun Crime Control
4 Act of 1975".

5 SEC. 2. The Congress hereby finds and declares—

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1 (a) that handguns play a major role in the com-
2 mission of homicide, aggravated assault, and armed rob-
3 bery, and that the percentage of violent crimes in which
4 handguns are used is increasing;

5 (b) that, because more than one-half of all hand-
6 guns are acquired secondhand, licensing and restric-
7 tions on the sale of new handguns will not significantly
8 reduce handgun crime and handgun violence;

9 (c) that, since with few exceptions handguns are
10 not used for sporting or recreational purposes, such pur-
11 poses do not require keeping of handguns in private
12 homes;

13 (d) that violent crimes perpetrated with handguns
14 constitute a burden upon and interfere with interstate
15 and foreign commerce and threaten the internal security
16 and domestic tranquillity of the Nation; and

17 (e) that a national firearms policy which restricts
18 the availability of handguns for nonlaw enforcement and
19 nonmilitary purposes will significantly reduce violent
20 crime, reduce deaths from handguns, and reduce other
21 handgun violence in the United States.

22 SEC. 3. Title 18, United States Code, is amended by
23 inserting immediately after chapter 50 thereof the following
24 new chapter:

1 **"Chapter 50A.—HANDGUNS**

"Sec.

"1091. Definitions.

"1092. Unlawful Acts.

"1093. Exceptions.

"1094. Voluntary delivery of handguns to law enforcement agency;
reimbursement.

"1095. Licensing of pistol clubs.

"1096. Penalties.

"1097. Rules and regulations.

"1098. Effect on State law.

"1099. Appropriations.

2 **"§ 1091. Definitions**3 **"As used in this chapter—**

4 **"(1) The term 'collector' means any person who ac-**
5 quires, holds, or disposes of handguns as curios, or relics, as
6 the Secretary shall by regulation define, and the term 'li-
7 censed collector' means any such person licensed under the
8 provisions of chapter 44 of this title.

9 **"(2) The term 'dealer' means (A) any person engaged**
10 in the business of selling handguns at wholesale or retail,
11 **(B) any person engaged in the business of repairing hand-**
12 guns or of making or fitting special barrels, or trigger mecha-
13 nisms to handguns, or **(C) any person who is a pawnbroker.**
14 The term 'licensed dealer' means any dealer who is licensed
15 under the provisions of chapter 44 of this title.

16 **"(3) The term 'handgun' means any weapon—**17 **"(A) designed or redesigned, or made, or remade,**
18 and intended to be fired while held in one hand;

1 “(B) having a barrel less than ten inches in length;
2 and

3 “(C) designed or redesigned, or made or remade,
4 to use the energy of an explosive to expel a projectile or
5 projectiles through a smooth or rifled bore.

6 “(4) The term ‘importer’ means any person engaged in
7 the business of importing or bringing handguns into the
8 United States for purposes of sale or distribution; and the
9 term ‘licensed importer’ means any such person licensed
10 under the provisions of chapter 44 of this title.

11 “(5) The term ‘manufacturer’ means any person en-
12 gaged in the manufacture or assembly of handguns for the
13 purposes of sale or distribution; and the term ‘licensed manu-
14 facturer’ means any such person licensed under the provisions
15 of chapter 44 of this title.

16 “(6) The term ‘person’ and the term ‘whoever’ include
17 any individual, corporation, company, association, firm, part-
18 nership, club, society, or joint-stock company.

19 “(7) The term ‘pistol club’ means a club organized
20 for target shooting with handguns or to use handguns for
21 sporting or other recreational purposes and which main-
22 tains possession and control of handguns used by its members.
23 The term ‘licensed pistol club’ means any pistol club which
24 is licensed under this chapter.

25 “(8) The term ‘Secretary’ or ‘Secretary of the Treas-

1 ury' means the Secretary of the Treasury or his delegate.

2 **"§ 1092. Unlawful acts"**

3 " (a) Except as provided in section 1093 of this chap-
4 ter and in subsection (b) of this section, it shall be unlawful
5 for any person to import, manufacture, sell, buy, transfer,
6 receive, or transport any handgun.

7 " (b) The Secretary may, consistent with public safety
8 and necessity, exempt from the operation of subsection (a)
9 of this section such importation, manufacture, sale, purchase,
10 transfer, receipt, or transportation of handguns by importers,
11 manufacturers, or dealers, licensed under chapter 44 of this
12 title, and by pistol clubs licensed under this chapter, as may
13 in his judgment be required for the purposes described in
14 section 1093 of this chapter or for the operation of licensed
15 pistol clubs.

16 **"§ 1093. Exceptions"**

17 " (a) The provisions of this chapter shall not apply with
18 respect to the importation, manufacture, sale, purchase, trans-
19 fer, receipt, or transportation of any handgun which the Sec-
20 retary determines is being imported or manufactured for,
21 sold, or transferred to, purchased, received, or transported
22 by, or issued for the use of, the United States or any depart-
23 ment or agency thereof or any State or any department,
24 agency, or political subdivision thereof.

25 " (b) The provisions of this chapter shall not apply with

1 respect to the importation, manufacture, sale, purchase,
2 transfer, receipt, or transportation of a handgun which the
3 Secretary determines is unserviceable, not restorable to fir-
4 ing condition, and intended for use as a curio, museum piece,
5 or collection's item.

6 **"§ 1094. Voluntary delivery of handguns to law enforce-**
7 **ment agency; reimbursement**

8 “(a) A person may at any time deliver to any Federal,
9 State, or local law enforcement agency designed by the
10 Secretary a handgun owned or possessed by such person.
11 The Secretary shall arrange with each agency designated to
12 receive handguns for the transfer, destruction, or other dis-
13 position of all handguns delivered under this section.

14 “(b) Upon proof of lawful acquisition and ownership
15 by a person delivering a handgun to a law enforcement
16 agency under this section, the owner of the handgun shall
17 be entitled to receive from the United States a payment
18 equal to the fair market value of the handgun or \$25, which-
19 ever is more. The Secretary shall provide for the payment,
20 directly or indirectly, through Federal, State, and local law
21 enforcement agencies, of the amounts to which owners of
22 handguns delivered under this section are entitled.

23 “(c) The amounts authorized in subsection (b) of this
24 section shall be paid out of the fees collected under section
25 1095(a) of this chapter to the extent that such fees are

1 sufficient for this purpose. The remainder of amounts author-
2 ized in subsection (b) of this section shall be paid out of
3 general revenues.

4 **“§ 1095. Licensing of pistol clubs**

5 “(a) A pistol club desiring to be licensed under this
6 chapter shall file an application for such license with the
7 Secretary. The application shall be in such form and contain
8 such information as the Secretary shall by regulation pre-
9 scribe. The fee for such license shall be \$25 per year.

10 “(b) Any application submitted under this section shall
11 be approved if—

12 “(1) no member of the pistol club is prohibited
13 from transporting, shipping, or receiving firearms or
14 ammunition in interstate or foreign commerce under
15 section 922 (g) or (h) of this title or under the law of
16 the State in which the club will be located or of the State
17 in which the member is domiciled;

18 “(2) no member of the pistol club has willfully
19 violated any of the provisions of this chapter or of chap-
20 ter 44 of this title or any regulations issued thereunder;

21 “(3) the pistol club has not willfully failed to dis-
22 close any material information required, or has not made
23 any false statement as to any material fact, in connection
24 with his application; and

1 “(4) the pistol club has premises from which it
2 operates and—

3 “(A) maintains possession and control of the
4 handguns used by its members, and

5 “(B) has procedures and facilities for keeping
6 such handguns in a secure place, under the control
7 of the club's chief officer, at all times when they are
8 not being used for target shooting or other sporting
9 or recreational purposes.

10 “(c) (1) The Secretary must approve or deny an appli-
11 cation for a license within the forty-five-day period begin-
12 ning on the date it is received. If the Secretary fails to act
13 within such period, the applicant may file an action under
14 section 1361 of title 28 to compel the Secretary to act. If the
15 Secretary approves an applicant's application, such applicant
16 shall be issued a license upon payment of the prescribed fee.

17 “(2) The Secretary may, after notice and opportunity
18 for hearing, revoke any license issued under this section if
19 the holder of such license has violated any provision of this
20 chapter or of chapter 44 of this title or any rule or regula-
21 tion prescribed by the Secretary under such chapters. The
22 Secretary's action under this paragraph may be reviewed
23 only as provided in subsection (d) of this section.

24 “(d) (1) Any person whose application for a license
25 is denied and any holder of a license which is revoked shall

1 receive a written notice from the Secretary stating specifi-
2 cally the grounds upon which the application was denied or
3 upon which the license was revoked. Any notice of revoca-
4 tion of a license shall be given to the holder of such license
5 before the effective date of the revocation.

6 “(2) If the Secretary denies an application for, or
7 revokes, a license; he shall, upon request by the aggrieved
8 party, promptly hold a hearing to review his denial or revo-
9 cation. In the case of a revocation of a license, the Secretary
10 shall upon the request of the holder of the license stay the
11 effective date of the revocation. A hearing held under this
12 paragraph shall be held at a location convenient to the
13 aggrieved party.

14 “(3) If after a hearing held under paragraph (2) the
15 Secretary decides not to reverse his decision to deny an
16 application or revoke a license, the Secretary shall give
17 notice of his decision to the aggrieved party. The aggrieved
18 party may at any time within sixty days after the date notice
19 was given under this paragraph file a petition with the
20 United States district court for the district in which he
21 resides or has his principal place of business for a judicial
22 review of such denial or revocation. In a proceeding con-
23 ducted under this subsection, the court may consider any
24 evidence submitted by the parties to the proceeding. If the
25 court decides that the Secretary was not authorized to deny

1 the application or to revoke the license, the court shall order
2 the Secretary to take such action as may be necessary to
3 comply with the judgment of the court.

4 “(e) Each licensed pistol club shall maintain such rec-
5 ords of receipt, sale, or other disposition, of handguns at such
6 place, for such period, and in such form as the Secretary
7 may by regulations prescribe. Such pistol clubs shall make
8 such records available for inspection at all reasonable times,
9 and shall submit to the Secretary such reports and informa-
10 tion with respect to such records and the contents thereof as
11 he shall by regulations prescribe. The Secretary may enter at
12 reasonable times the premises (including places of storage)
13 of any pistol club for the purpose of inspecting or examining
14 (1) any records of documents required to be kept by such
15 pistol club under the provisions of this chapter or chapter 44
16 of this title and regulations issued under such chapters, and
17 (2) any handguns or ammunition kept or stored by such
18 pistol club at such premises. Upon the request of any State
19 or any political subdivision thereof, the Secretary may make
20 available to such State or any political subdivision thereof
21 any information which he may obtain by reason of the pro-
22 visions of this chapter with respect to the identification of
23 persons who are members of pistol clubs within such State or
24 political subdivision thereof, together with a description of
25 the handguns included in such pistol club's license.

1 “(f) Licenses issued under the provisions of subsection
2 (b) of this section shall be kept posted and kept available
3 for inspection on the premises covered by the license.

4 “(g) Any importer, manufacturer, or dealer desiring
5 to be licensed under this chapter shall apply as provided in
6 chapter 44 of this title.

7 **“§ 1096. Penalties**

8 “(a) Whoever violates any provision of this chapter or
9 knowingly makes any false statement of representation with
10 respect to the information required by the provisions of this
11 chapter to be kept in the records of a pistol club licensed
12 under this chapter, or in applying for any license under the
13 provisions of this chapter, shall be fined not more than
14 \$5,000, or imprisoned not more than five years, or both, and
15 shall become eligible for parole as the Board of Parole shall
16 determine.

17 “(b) Any handgun involved or used in, or intended to
18 be used in, any violation of the provisions of this chapter or
19 chapter 44 of this title or any rule or regulation promulgated
20 thereunder, or any violation of any other criminal law of the
21 United States, shall be subject to seizure and forfeiture and
22 all provisions of the Internal Revenue Code of 1954 relating
23 to the seizure, forfeiture, and disposition of firearms shall, so
24 far as applicable, extend to seizures and forfeitures under the
25 provisions of this chapter.

1 **“§ 1097. Rules and regulations**

2 “(a) The Secretary may prescribe such rules and regu-
3 lations as he deems necessary to carry out the provisions of
4 this chapter, including—

5 “(1) regulations providing that a person licensed
6 under this chapter, when dealing with another person
7 so licensed or with a person licensed under chapter 44
8 of this title, shall provide such other licensed person a
9 certified copy of his license; and

10 “(2) regulations providing for the issuance, at a
11 reasonable cost, to a person licensed under this chapter,
12 of certified copies of his license for use as provided under
13 regulations issued under paragraph (1) of this sub-
14 section.

15 “(b) The Secretary shall give reasonable public notice,
16 and afford to interested parties opportunity for hearing, prior
17 to prescribing rules and regulations authorized by this
18 section.

19 **“§ 1098. Effect on State law**

20 “No provision of this chapter shall be construed as
21 indicating an intent on the part of the Congress to occupy
22 the field in which such provision operates to the exclusion
23 of the law of any State on the same subject, unless there is
24 a direct and positive conflict between such provision and the

1 law of the State so that the two cannot be reconciled or con-
2 sistently stand together.

3 **"§ 1099. Appropriations**

4 "There are authorized to be appropriated such sums as
5 are necessary to carry out the purposes of this chapter."

6 SEC. 4. The enforcement and administration of the
7 amendment made by this Act shall be vested in the Secre-
8 tary of the Treasury.

9 SEC. 5. Nothing in this Act or the amendment made
10 thereby shall be construed as modifying or affecting any
11 provision of—

12 (a) the National Firearms Act (chapter 53 of
13 the Internal Revenue Code of 1954) ;

14 (b) section 414 of the Mutual Security Act of
15 1954 (22 U.S.C. 1934), as amended, relating to muni-
16 tions control; or

17 (c) section 1715 of title 18, United States Code,
18 relating to nonmailable firearms.

19 SEC. 6. The provisions of this Act shall take effect one
20 year from the date of enactment.

94TH CONGRESS
1ST SESSION

H. R. 1601

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 1975

Mr. DRINAN introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To regulate and control handguns.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Handgun Control Act
4 of 1974".

5 SEC. 2. The Congress hereby finds and declares—

6 (a) that annual sales of handguns in the United
7 States have risen sharply in the last decade, bringing
8 the total number of handguns in private hands to approx-
9 imately twenty-four million by the end of 1968; and
10 (b) that handguns play a major role, and a role dis-
11 proportionate to their number in comparison with long

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1 guns, in the commission of homicide, aggravated assault,
2 and armed robbery, and that the percentage of violent
3 crimes in which handguns are used is increasing; and

4 (c) that most homicides are committed in alterca-
5 tions between relatives, neighbors, or other acquaint-
6 ances, rather than in a confrontation between strangers;
7 and

8 (d) that handguns in the home are of less value
9 than is commonly thought in defending against in-
10 truders, and are more likely to increase the danger of
11 a firearm fatality to the inhabitants than to enhance
12 their personal safety; and

13 (e) that with few exceptions, handguns are not
14 used for sporting or recreational purposes and that such
15 purposes do not require keeping handguns in private
16 homes; and

17 (f) that more than one-half of all handguns are
18 acquired secondhand and that licensing and restrictions
19 on sale of new handguns will not significantly reduce
20 handgun crime and handgun violence; and

21 (g) that violent crimes perpetrated with handguns
22 constitute a burden upon and interfere with interstate
23 and foreign commerce and threaten the internal secu-
24 rity and domestic tranquillity of the Nation; and

25 (h) that fear of firearms crimes discourages citizens

1 from traveling between the States to conduct business or
2 to visit the Nation's Capital; and

3 (i) that crimes committed with guns have disrupted
4 our national political processes, and threaten the repub-
5 lican form of government within the States as guaran-
6 teed by article IV of the Constitution; and

7 (j) that a national firearms policy which restricts
8 the availability of handguns for non-law-enforcement and
9 non-military purposes will significantly reduce violent
10 crime, reduce deaths from handguns, and reduce other
11 handgun violence in the United States.

12 SEC. 3. Title 18, United States Code, is amended by
13 inserting immediately after chapter 50 thereof the following
14 new chapter:

15 **"Chapter 50A.—HANDGUNS**

"Sec.

"1091. Unlawful acts.

"1092. Licensing.

"1093. Penalties.

"1094. Exceptions.

"1095. Voluntary delivery to law enforcement agency; reimbursement.

"1096. Rules and regulations.

"1097. Effect on State law.

"1098. Separability clause.

"1099. Appropriations.

"1100. Definitions.

16 **"§ 1091. Unlawful acts**

17 "(a) Except as provided in section 1094 of this
18 chapter and in subsection (c) of this section, it shall be un-
19 lawful for any person to import, manufacture, sell, buy,

1 transfer, receive, or transport any handgun and handgun
2 ammunition.

3 “(b) Except as provided in section 1094 of this chap-
4 ter and in subsection (c) of this section, it shall be unlawful
5 after one hundred and eighty days from the effective date of
6 this chapter, for any person to own or possess any handgun
7 or handgun ammunition.

8 “(c) The Secretary may, consistent with public safety
9 and necessity, exempt from the operation of subsection (a)
10 and subsection (b) of this section such importation, manu-
11 facture, sale, purchase, transfer, receipt, possession, owner-
12 ship, or transportation of handguns and handgun ammunition
13 by importers, manufacturers, or dealers, licensed under chap-
14 ter 44 of this title, and by pistol clubs licensed under this
15 chapter, as may in his judgment be required for the operation
16 of such pistol clubs or for purposes in section 1094 of this
17 chapter.

18 “(d) It shall be unlawful for any licensed importer,
19 manufacturer, or dealer to sell or otherwise transfer any hand-
20 gun or handgun ammunition to any person, except another
21 licensed importer, manufacturer, or dealer, without presenta-
22 tion by the purchaser or recipient of written verification that
23 the receipt or purchase is being made by or on behalf of a
24 person or government agency eligible to obtain and possess

1 handguns under section 1094 of this chapter or a pistol club
2 licensed under this chapter.

3 “(c) Every manufacturer, importer, and dealer who
4 sells or otherwise transfers handguns or handgun ammuni-
5 tion shall maintain records of sale or transfer of handguns
6 and handgun ammunition in such form as the Secretary
7 may by regulations provide and shall permit the Secretary
8 to enter the premises at reasonable times for the purpose
9 of inspecting such records.

10 **“§ 1092. Licensing**

11 “(a) A pistol club desiring to be licensed under this
12 chapter shall file an application for such license with the
13 Secretary. The application shall be in such form and contain
14 such information as the Secretary shall by regulation pre-
15 scribe. The fee for such license shall be \$25 per year.

16 “(b) Any importer manufacturer, or dealer desiring to
17 be licensed under this chapter shall apply as provided in
18 chapter 44 of this title.

19 “(c) Any application submitted under subsection (a)
20 shall be approved if—

21 “(1) no member of the pistol club is a person
22 whose membership and participation in the club is in
23 violation of any applicable State laws;

24 “(2) no member of the pistol club is prohibited
25 from transporting, shipping, or receiving firearms or

6

1 ammunition in interstate or foreign commerce under
2 section 922 (g) or (h) of this title;

3 “(3) no member of the pistol club has willfully
4 violated any of the provisions of this chapter or of chap-
5 ter 44 of this title or any regulations issued thereunder;

6 “(4) the pistol club has not willfully failed to dis-
7 close any material information required, or has not
8 made any false statement as to any material fact in
9 connection with its application;

10 “(5) the club has been founded and operated for
11 bona fide target or sport shooting and other legitimate
12 recreational purposes; and

13 “(6) the pistol club has premises from which it
14 operates and—

15 “(A) maintains possession and control of the
16 handguns used by its members, and

17 “(B) (i) has procedures and facilities for keep-
18 ing such handguns in a secure place, under the con-
19 trol of the club’s chief officer, at all times when they
20 are not being used for target shooting or other sport-
21 ing or recreational purposes, or

22 “(ii) has effected arrangements for the storage
23 of the members’ handguns in a facility of the local
24 police department or other nearby law enforcement
25 agency.

1 “(d) (1) The Secretary must approve or deny an ap-
2 plication for a license within the sixty-day period beginning
3 on the date it is received. If the Secretary fails to act within
4 such period, the applicant may file an action under section
5 1361 of title 28 to compel the Secretary to act. If the Sec-
6 retary approves an applicant's application, such applicant
7 shall be issued a license upon payment of the prescribed fee.

8 “(2) The Secretary may, after notice and opportunity
9 for hearing, revoke any license issued under this section if
10 the holder of such license has violated any provision of this
11 chapter or of chapter 44 of this title or any rule or regula-
12 tions prescribed by the Secretary under such chapters. The
13 Secretary's action under this paragraph may be reviewed
14 only as provided in subsection (c) of this section.

15 “(e) (1) Any person whose application for a license
16 is denied and any holder of a license which is revoked shall
17 receive a written notice from the Secretary stating specifi-
18 cally the grounds upon which the application was denied or
19 upon which the license was revoked. Any notice of revoca-
20 tion of a license shall be given to the holder of such license
21 before the effective date of the revocation.

22 “(2) If the Secretary denies an application for, or
23 revokes, a license, he shall, upon request by the aggrieved
24 party, promptly hold a hearing to review his denial or revo-
25 cation. In the case of a revocation of a license, the Secretary

1 shall upon the request of the holder of the license stay the
2 effective date of the revocation. A hearing held under this
3 paragraph shall be held at a location convenient to the
4 aggrieved party.

5 “(3) If after a hearing held under paragraph (2) the
6 Secretary decides not to reverse his decision to deny an
7 application or revoke a license, the Secretary shall give
8 notice of his decision to the aggrieved party. The aggrieved
9 party may at any time within sixty days after the date notice
10 was given under this paragraph file a petition with the
11 United States district court for the district in which he
12 resides or has his principal place of business for a judicial
13 review of such denial or revocation. In a proceeding con-
14 ducted under this subsection, the court may consider any
15 evidence submitted to the parties to the proceeding. If the
16 court decides that the Secretary was not authorized to deny
17 the application or to revoke the license, the court shall order
18 the Secretary to take such action as may be necessary to
19 comply with the judgment of the court.

20 “(f) Each licensed pistol club shall maintain such rec-
21 ords of receipt, sale, or other disposition, of handguns at such
22 place, for such period, and in such form as the Secretary
23 may by regulations prescribe. Such pistol clubs shall make
24 such records available for inspection at all reasonable times,
25 and shall submit to the Secretary such reports and informa-

1 tion with respect to such records and the contents thereof
2 as he shall by regulations prescribe. The Secretary may
3 enter at reasonable times the premises (including places of
4 storage) of any pistol club for the purpose of inspecting or
5 examining (1) any records of documents required to be kept
6 by such pistol club under the provisions of this chapter or
7 chapter 44 of this title and regulations issued under such
8 chapters, and (2) any handguns or ammunition kept or
9 stored by such pistol club at such premises.

10 “(g) Licenses issued under the provisions of subsection
11 (c) of this section shall be kept posted and kept available
12 for inspection on the premises covered by the license.

13 “(h) The loss or theft of any firearms shall be re-
14 ported by the person from whose possession it was lost or
15 stolen, within thirty days after such loss or theft is dis-
16 covered, to the Secretary. Such report shall include such
17 information as the Secretary by regulation shall prescribe,
18 including, without limitation, the date and place of theft
19 or loss.

20 **“§ 1093. Penalties**

21 “(a) Whoever violates any provision of section 1091
22 of this chapter shall be fined not more than \$5,000, or im-
23 prisoned not more than five years, or both, and shall become
24 eligible for parole as the Board of Parole shall determine.

25 “(b) Whoever knowingly makes any false statement

1 or representation with respect to the information required
2 by the provisions of this chapter to be kept in the records
3 of an importer, manufacturer, dealer, or pistol club, licensed
4 under this chapter, or in applying for a pistol club license
5 under the provisions of this chapter, shall be fined not more
6 than \$5,000, or imprisoned not more than five years, or
7 both, and shall become eligible for parole as the Board of
8 Parole shall determine.

9 “(c) Any handgun or handgun ammunition involved
10 or used in, or intended to be used in, any violation of the
11 provisions of this chapter or chapter 44 of this title or any
12 rule or regulation promulgated thereunder, or any violation
13 of any other criminal law of the United States, shall be sub-
14 ject to seizure and forfeiture and all provisions of the Inter-
15 nal Revenue Code of 1954 relating to the seizure, forfeiture,
16 and disposition of firearms shall, so far as applicable, extend
17 to seizures and forfeitures under the provisions of this chapter.

18 “(d) Except as provided in subsection (b), no infor-
19 mation or evidence obtained from an application or certificate
20 of registration required to be submitted or retained by a
21 natural person in order to comply with any provision of
22 this chapter or regulations issued by the Secretary shall be
23 used, directly or indirectly, as evidence against that person
24 in a criminal proceeding with respect to a violation of law
25 occurring prior to or concurrently with the filing of the

1 application for registration containing the information or
2 evidence.

3 **“§ 1094. Exceptions**

4 “(a) The provisions of this chapter shall not apply with
5 respect to the importation, manufacture, sale, purchase,
6 transfer, receipt, or transportation of any handgun or hand-
7 gun ammunition which the Secretary determines is being
8 imported or manufactured for, sold, or transferred to, pur-
9 chased, received, owned, possessed, or transported by, or
10 issued for the use of—

11 “(1) a professional security guard service which is
12 licensed by the State in which the handgun is to be
13 used, and which is authorized to provide armed security
14 guards for hire; or

15 “(2) the United States or any department or
16 agency thereof or any State or any department, agency,
17 or political subdivision thereof.

18 “(b) Every security guard service purchasing, receiving,
19 owning, possessing, or transporting handguns under subsec-
20 tion (a) shall maintain records of receipt, sale, ownership,
21 and possession of handguns in such form as the Secretary
22 may provide and permit the Secretary to enter the prem-
23 ises at reasonable times for the purpose of inspecting such
24 records.

25 “(c) The provisions of this chapter shall not apply

1 with respect to the importation, sale, purchase, transfer,
2 receipt, or transportation of a handgun manufactured be-
3 fore 1890, or any other handgun which the Secretary de-
4 termines is unserviceable, not restorable to firing condition,
5 and intended for use as a curio, museum piece, or collectors'
6 item.

7 **"§ 1095. Voluntary delivery to law enforcement agency;**
8 **reimbursement**

9 " (a) Any person may at any time deliver to any Fed-
10 eral, State, or local law enforcement agency designated by
11 the Secretary a handgun owned or possessed by such per-
12 son. The Secretary shall arrange with each agency desig-
13 nated to receive handguns for the transfer, destruction, or
14 other disposition of all handguns delivered under this
15 section.

16 " (b) Upon proof of lawful acquisition and ownership
17 by a person delivering a handgun to a law enforcement
18 agency under this section, within one hundred and eighty
19 days of the effective date of this chapter, the owner of the
20 handgun shall be entitled to receive from the United States a
21 payment equal to the fair market value of the handgun or
22 \$25, whichever is more. The Secretary shall provide for the
23 payment, directly or indirectly, through Federal, State, and
24 local law enforcement agencies, of the amounts to which
25 owners of handguns delivered under this section are entitled.

1 “(c) The amounts authorized in subsection (b) of this
2 section shall be paid out of the fees collected under section
3 1092 (a) of this chapter to the extent that such fees are
4 sufficient for this purpose. The remainder of amounts au-
5 thorized in subsection (b) of this section shall be paid out
6 of general revenues.

7 **“§ 1096. Rules and regulations**

8 “(a) The Secretary may prescribe such rules and reg-
9 ulations as he deems necessary to carry out the provisions
10 of this chapter.

11 **“§ 1097. Effect on State law**

12 “No provision of this chapter shall be construed as
13 indicating an intent on the part of the Congress to occupy
14 the field in which such provision operates to the exclusion
15 of the law of any State on the same subject, unless there is
16 a direct and positive conflict between such provision and
17 the law of the State so that the two cannot be reconciled
18 or consistently stand together.

19 **“§ 1098. Separability**

20 “If any provision of this chapter or the application there-
21 of to any person or circumstance is held invalid, the re-
22 mainder of the chapter and the application of such provision
23 to other persons not similarly situated or to other circum-
24 stances shall not be affected thereby.

1 **“§ 1099. Assistance to the Secretary**

2 “When requested by the Secretary, Federal departments
3 and agencies shall assist the Secretary in the administration
4 of this title.

5 **“§ 1100. Appropriations**

6 “There are authorized to be appropriated such sums as
7 are necessary to carry out the purposes of this chapter.

8 **“§ 1101. Definitions**

9 “As used in this chapter—

10 “(1) The term ‘person’ and the term ‘whoever’ include
11 any individual, corporation, company, association, firm part-
12 nership, club, society, or joint-stock company.

13 “(2) The term ‘importer’ means any person engaged in
14 the business of importing or bringing handguns into the
15 United States for purposes of sale or distribution; and the
16 term ‘licensed importer’ means any such person licensed
17 under the provisions of chapter 44 of this title.

18 “(3) The term ‘manufacturer’ means any person en-
19 gaged in the manufacture or assembly of handguns for the
20 purposes of sale or distribution; and the term ‘licensed manu-
21 facturer’ means any such person licensed under the provisions
22 of chapter 44 of this title.

23 “(4) The term ‘dealer’ means (A) any person engaged
24 in the business of selling handguns at wholesale or retail,
25 (B) any person engaged in the business of repairing hand-

1 guns or of making or fitting special barrels, or trigger mech-
2 anisms to handguns, or (C) any person who is a pawn-
3 broker. The term 'licensed dealer' means any dealer who is
4 licensed under the provisions of chapter 44 of this title.

5 “(5) The term 'fair market value' means the prevailing
6 price on the open market for such weapons immediately prior
7 to enactment or at the time of voluntary transfer under sec-
8 tion 1095 of this chapter, whichever is higher, the method
9 of establishing such prices to be prescribed by the Secretary
10 in accordance with his authority under section 1096.

11 “(6) The term 'Secretary' or 'Secretary of the Treasury'
12 means the Secretary of the Treasury or his delegate.

13 “(7) The term 'handgun' means any weapon—

14 “(A) designed or redesigned, or made or remade,
15 and intended to be fired while held in one hand;

16 “(B) having a barrel less than ten inches in length;
17 and

18 “(C) designed or redesigned, or made or remade,
19 to use the energy of an explosive to expel a projectile
20 or projectiles through a smooth or rifled bore.

21 “(8) The term 'handgun ammunition' means ammu-
22 nition or cartridge cases, or bullets designed for use primarily
23 in handguns.

24 “(9) The term 'pistol club' means a club organized for

1 target shooting with handguns or to use handguns for sport-
2 ing or other recreational purposes.

3 “(10) The term ‘licensed pistol club’ means a pistol
4 club which is licensed under this chapter.”

5 SEC. 4. The enforcement and administration of the
6 amendment made by this Act shall be vested in the Secre-
7 tary of the Treasury.

8 SEC. 5. Nothing in this Act or the amendment made
9 thereby shall be construed as modifying or affecting any
10 provision of—

11 (a) the National Firearms Act (chapter 53 of the
12 Internal Revenue Code of 1954) ;

13 (b) section 414 of the Mutual Security Act of 1954
14 (22 U.S.C. 1934) , as amended, relating to munitions
15 control; or

16 (c) section 1715 of title 18, United States Code,
17 relating to nonmailable firearms.

18 SEC. 6. The provisions of this Act shall take effect one
19 hundred and eighty days following the date of enactment.

94TH CONGRESS
1ST SESSION

H. R. 1685

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 1975

Mr. GUDE introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Gun Control Act of 1968.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Handgun Regis-
4 tration and Licensing Act of 1975".

5 SEC. 2. The Congress hereby finds and declares—

6 (a) that handguns are the principal instruments of
7 violent crime in the United States and are concealable
8 weapons designed for the primary purpose of killing and
9 maiming human beings;

10 (b) that such legitimate purposes for handgun
11 ownership as exist will not be impeded by a national

1 system of handgun registration and handgun owner
2 licensing; and

3 (c) that the crimes of violence and the accidental
4 injury caused by handguns threaten the peace and
5 domestic tranquility of the citizens of the United States
6 and the security and general welfare of this Nation and
7 its people.

8 SEC. 3. Section 921 (a) of title 18, United States Code,
9 is amended by inserting after paragraph (20) the following:

10 “(21) The term ‘handgun’ means a firearm designed to
11 be fired by the use of a single hand. The term also includes
12 a combination of parts in the possession or under the con-
13 trol of a person from which a handgun can be assembled. The
14 term does not include antique firearms.

15 “(22) The term ‘handgun model’ means a handgun of
16 a particular design, specification, and designation.”

17 SEC. 4. Section 922 (b) of such title 18 is amended—

18 (a) by striking out at the end of paragraph (4)
19 thereof the word “and”;

20 (b) by striking out at the end of paragraph (5)
21 thereof the period and inserting in lieu thereof a semi-
22 colon;

23 (c) by adding after paragraph (5) thereof the
24 following new paragraph:

25 “(6) any handgun model unless such handgun

1 model has been approved by the Secretary pursuant to
2 section 922 (n) of this title.”; and

3 (d) by striking out the last sentence of such sub-
4 section and inserting in lieu thereof the following:
5 “Paragraphs (4) and (6) of this subsection shall not
6 apply to a sale or delivery to any research organization
7 designated by the Secretary. Paragraph (6) of this sub-
8 section shall not apply to the sale or delivery of any fire-
9 arm to the United States or any department or agency
10 thereof, or to any State, department, agency, or political
11 subdivision thereof, or to any duly commissioned law
12 enforcement officer of the United States or any depart-
13 ment or agency thereof or of any State, department,
14 agency or political subdivisions thereof (including but
15 not limited to members of the Armed Forces and police
16 officers) properly authorized to carry such firearms in
17 his official capacity. Paragraph (6) of this subsection
18 shall not apply to the sale or delivery by a licensed im-
19 porter, licensed manufacturer, or licensed dealer to a
20 licensed dealer of any firearm intended to be sold or
21 delivered to any government or agency thereof or person
22 entitled pursuant to this paragraph to have such firearms
23 sold or delivered to him. Paragraph (6) of this sub-
24 section shall not apply to the sale or delivery to a
25 licensed collector or licensed dealer of any firearm which

1 is a curio or relic, as the Secretary shall by regulation
2 define. Paragraph (6) of this subsection shall not apply
3 to occasional, sporadic sales of single handguns by a
4 licensed collector who is not a dealer, as defined by
5 section 921 (a) of this title."

6 SEC. 5. Section 922 of such title 18 is amended by
7 adding at the end thereof the following new subsections:

8 "(n) The Secretary shall not approve for sale or de-
9 livery by a licensed dealer, licensed importer, licensed man-
10 ufacturer, or licensed collector any handgun model unless he
11 has caused to be evaluated and tested representative samples
12 of such handgun model and finds that—

13 "(1) in the case of a pistol, the handgun model—

14 "(A) has a positive manually operated safety
15 device,

16 "(B) has a combined length and height in ex-
17 cess of ten inches with the height (right angle
18 measurement to the barrel without the magazine
19 or extension) being at least four inches and the
20 length being at least six inches, and

21 "(C) attains a total of at least seventy-five
22 points under the following criteria:

23 "(i) OVERALL LENGTH.—one point for
24 each one-fourth inch over six inches;

25 "(i) FRAME CONSTRUCTION.—(I)

1 fifteen points if investment cast steel or forged
2 steel, and (II) twenty points if investment
3 cast HTS alloy or forged HTS alloy;

4 “(iii) PISTOL WEIGHT.—one point for
5 each ounce, with the pistol unloaded and the
6 magazine in place;

7 “(IV) CALIBER.—(I) zero points if the
8 pistol accepts only .22 caliber short or .25
9 caliber automatic ammunition, (II) three
10 points if the pistol accepts either .22 caliber
11 long rifle ammunition or any ammunition with-
12 in the range delimited by 7.65 millimeter and
13 .380 caliber automatic, (III) 10 points if the
14 pistol accepts 9 millimeter parabellum ammuni-
15 tion or over, and (IV) in the case of am-
16 munition not falling within one of the classes
17 enumerated in subclauses (I) through (III),
18 such number of points not greater than ten
19 (following the classification schedule of clause
20 (iv) as nearly as is practicable) as the Secre-
21 tary shall determine appropriate to the suit-
22 ability for sporting purposes of handgun models
23 designed for such ammunition;

24 “(v) SAFETY FEATURES.—(I) five points
25 if the pistol has a locked breech mechanism,

(II) five points if the pistol has a loaded chamber indicator, (III) three points if the pistol has a grip safety, (IV) five points if the pistol has a magazine safety, (V) ten points if the pistol has a firing pin block or lock; and

“(vi) MISCELLANEOUS EQUIPMENT.—

(I) two points if the pistol has an external hammer, (II) ten points if the pistol has a double action firing mechanism, (III) five points if the pistol has a drift adjustable target sight, (IV) ten points if the pistol has a click adjustable target sight, (V) five points if the pistol has target grips, and (VI) two points if the pistol has a target trigger;

“(2) in the case of a revolver, the handgun model—

“(A) has an overall frame length of four and one-half inches measured on a line parallel to the barrel,

“(B) has a barrel length of at least three inches,

“(C) has a safety device which (i) automatically in the case of a double action firing mechanism or (ii) by manual operation in the case of a single action firing mechanism, causes the hammer to retract to a point where the firing pin does

1 not rest upon the primer of the cartridge, and which,
2 when activated, is capable of withstanding the im-
3 pact of a weight, equal to the weight of the revolver,
4 dropped a total of five times from a height of thirty-
5 six inches above the rear of the hammer spur onto
6 the rear of the hammer spur with the revolver
7 resting in a position such that the line of the barrel
8 is perpendicular to the plane of the horizon, and

9 “(D) attains a total of at least forty-five points
10 under the following criteria:

11 “(i) BARREL LENGTH.—one-half point for
12 each one-fourth inch that the barrel is longer
13 than four inches;

14 “(ii) FRAME CONSTRUCTION.—(I) fifteen
15 points if investment cast steel or forged steel,
16 (II) twenty points if investment cast HTS
17 alloy or forged HTS alloy;

18 “(iii) REVOLVER WEIGHT.—one point for
19 each ounce with the revolver unloaded;

20 “(iv) CALIBER.—(I) zero points if the
21 revolver accepts only .22 caliber short or .25
22 caliber ACP, (II) three points if the revolver
23 accepts .22 caliber long rifle or ammunition
24 in the range between .30 caliber and .38 S&W,
25 (III) four points if the revolver accepts .38

1 caliber special ammunition, (IV) five points
2 if the revolver accepts .357 magnum or over,
3 and (V) in the case of ammunition not fall-
4 ing within one of the classes enumerated in
5 subclauses (I) through (IV), such number of
6 points not greater than five (following the
7 classification schedule of clause (iv) as nearly
8 as practicable) as the Secretary shall deter-
9 mine appropriate to the suitability for sporting
10 purposes of handgun models designed for such
11 ammunition; and

12 “(v) MISCELLANEOUS EQUIPMENT.—(I)
13 five points if the revolver has either drift or
14 click adjustable target sights, (II) five points
15 if the revolver has target grips, and (III) five
16 points if the revolver has a target hammer
17 and a target trigger; and

18 “(3) the handgun model also meets such additional
19 standards as the Secretary may by regulation promul-
20 gate, after consultation with the Chief of Army Ordnance
21 and the Secretary of Commerce, if the Secretary deter-
22 mines that changes in the technology or manufacture of
23 handguns, or actions tending to circumvent the intent
24 of this subsection that approval of only those handgun

1 models which are generally recognized as particularly
2 suitable for sporting purposes be allowed, have rendered
3 inadequate the standards set forth in paragraphs (1)
4 and (2) of this subsection, except that the Secretary
5 shall not promulgate any such regulation which would
6 permit the approval for sale or delivery of any handgun
7 model which could not have been approved in the
8 absence of such regulation.

9 “(o) It shall be unlawful for any person to reduce the
10 length of the barrel or the overall length of a handgun pre-
11 viously approved by the Secretary for sale and delivery if
12 as a result of such modification the handgun no longer meets
13 the standards for approval set forth in subsection (n) of this
14 section.

15 “(p) The Secretary shall give written notification of
16 the results of evaluation and testing conducted pursuant to
17 subsection (n) of this section to the licensee submitting
18 samples of a handgun model for such evaluation and testing.
19 If any handgun model fails to meet the standards for ap-
20 proval, the Secretary's notification shall state specifically
21 the reasons for such finding. Any such notification of ap-
22 proval or failure shall be published in the Federal Register.
23 At least once each year the Secretary shall compile a list
24 of all handgun models which are then approved for sale or

1 delivery under subsection (n) of this section, which list
2 shall be published in the Federal Register and furnished
3 annually to each licensee under this chapter.

4 “(q) Any licensee submitting to the Secretary for test-
5 ing a handgun model which is subsequently found not in com-
6 pliance with relevant standards shall have ten days from re-
7 ceipt of notification of noncompliance within which to submit
8 in writing specific objections to such finding and a request
9 for retesting such model, together with justification therefor.
10 Upon receipt of such a request the Secretary shall promptly
11 arrange for retesting and thereafter notify the aggrieved party
12 of the results, if he determines sufficient justification for re-
13 testing exists. Should he determine that retesting is not war-
14 ranted, the Secretary shall promptly notify the aggrieved
15 party as to such determination. In the event that upon re-
16 testing the Secretary's finding remains adverse, or that the
17 Secretary finds retesting is not warranted, the aggrieved
18 party may within sixty days after the date of the Secretary's
19 notice of such finding file a petition in the United States dis-
20 trict court in the district in which the aggrieved party has
21 his principal place of business in order to obtain judicial re-
22 view of such finding. Such review will be in accordance with
23 the provisions of section 706 of title 5, United States Code.”

24 SEC. 6. (a) Chapter 44 of such title 18 is further amend-
25 ed by adding after section 923 the following new section:

1 **"§ 923A. Registration and licensing of handguns; trans-**
2 **fer of handguns and handgun ammunition**

3 “(a) (1) (A) No person other than a licensed importer,
4 licensed dealer, or licensed manufacturer shall knowingly
5 possess any handgun unless such handgun is registered with
6 the Secretary pursuant to this subsection. The Secretary shall
7 not register any handgun, the handgun model of which has
8 been disapproved for sale or delivery by a person licensed
9 under section 923.

10 “(B) No person shall transfer possession of any hand-
11 gun or ammunition of a caliber other than .22 rimfire to
12 another person for use in a handgun unless the transferee
13 (other than a licensed importer, licensed dealer, licensed
14 collector, or licensed manufacturer) displays a Federal hand-
15 gun license issued under subsection (b) of this section and
16 temporary evidence of registration of the handgun to be
17 transferred (as provided in paragraph (3) (E) of this sub-
18 section). Where the transferee is a licensed importer, licensed
19 dealer, licensed collector, or licensed manufacturer, no person
20 shall transfer possession of any handgun or ammunition other
21 than .22 rimfire for use in any handgun unless such trans-
22 feree displays a license issued under section 923, and in
23 the case of a licensed collector, temporary evidence of regis-
24 tration of the handgun to be transferred (as provided in para-
25 graph (A) (E) of this subsection).

1 “(2) Notwithstanding the provisions of section 925
2 (a) (1), the Secretary shall prescribe such regulations as
3 he deems reasonably necessary to provide procedures for the
4 registration of any handgun possessed and for which regis-
5 tration is applied by (A) the United States or any depart-
6 ment or agency thereof, or (B) any State, or department,
7 or agency, or political subdivision thereof. Any regulations
8 so prescribed may authorize any such department, agency,
9 or instrumentality of the United States or any State or po-
10 litical subdivision thereof to prescribe its own procedure for
11 registration of handguns subject to the approval of the
12 Secretary.

13 “(3) The application for registration of a handgun
14 shall be filed in such place as the Secretary by regulation
15 may provide and be in such form and contain such infor-
16 mation as the Secretary shall by regulation prescribe
17 including—

18 “(A) the name, address, and social security or
19 taxpayer identification number of the applicant,

20 “(B) the number of the Federal handgun license
21 issued to the applicant pursuant to subsection (b),

22 “(C) the name of the manufacturer, the caliber or
23 gage, the model and the type, and the serial number
24 of the handgun,

25 “(D) the date, place, and name and address of the

1 person from whom the handgun was obtained, the num-
2 ber of such person's certificate of registration of such
3 handgun if any, and, if such person is licensed under sec-
4 tion 923, his license number, and

5 " (E) a form containing sufficient copies to allow
6 the applicant to retain a duplicate of the original applica-
7 tion which duplicate shall be retained by the applicant
8 and shall be temporary evidence of registration.

9 " (4) Each applicant shall pay a fee for registering each
10 handgun as follows—

11 " (A) for the first handgun, a fee of \$2,

12 " (B) for each additional handgun, a fee of \$1, and

13 " (C) for a collection of handguns (as that term is
14 defined in regulations which the Secretary shall pre-
15 scribe), a fee of \$2.

16 The provisions of this paragraph shall not apply, and no
17 registration fee shall be charged for registration of any
18 handgun possessed and for which registration is applied by—

19 " (i) the United States or any department or agency
20 thereof,

21 " (ii) any State, political subdivision, department,
22 or agency thereof.

23 " (5) Upon the filing of a proper application and pay-
24 ment of the prescribed fee, the Secretary shall issue to the
25 applicant a numbered registration certificate identifying

1 such handgun and such applicant as the registered owner
2 of such handgun.

3 “(6) (A) Any person shall be ineligible to register
4 or to apply to register a handgun pursuant to this sub-
5 section who—

6 “(i) is under eighteen years of age;

7 “(ii) is, because of alcoholism, drug addiction, or
8 mental disease or defect, an individual who cannot pos-
9 sess or use handguns safely or responsibly;

10 “(iii) has been convicted in any court of a crime
11 punishable by imprisonment for a term exceeding one
12 year;

13 “(iv) is a fugitive from justice;

14 “(v) is not of good moral character; or

15 “(vi) is not qualified under all applicable Fed-
16 eral, State, and local laws to register a handgun pur-
17 suant to this subsection.

18 Any purported registration by any of the persons described
19 in this subparagraph shall be void.

20 “(B) In making determinations under subparagraph
21 (A) (ii) above, an applicant may submit, with his applica-
22 tion or subsequent to his initial application, to the Secretary
23 or his authorized representative, a statement from a duly-
24 licensed physician stating that, in the opinion of such
25 physician, such person is not by reason of alcoholism, drug

1 addiction, or mental disease or defect physically or mentally
2 unfit to possess a handgun. The provisions of this subpara-
3 graph shall be considered to establish a presumption of
4 fitness on behalf of any person submitting such a statement,
5 Such presumption may be rebutted by clear and convincing
6 evidence to the contrary.

7 “(7) (A) Any person to whom a handgun registration
8 certificate has been issued by the Secretary under this sec-
9 tion shall notify the Secretary of any change in such per-
10 son’s name or address within thirty days of the date of any
11 such change. Such notice shall contain (i) the registration
12 number of each handgun registration certificate issued under
13 this subsection, and (ii) the license number of the Federal
14 handgun license issued to such person under subsection (b)
15 of this section.

16 “(B) (i) Any person to whom a handgun registration
17 certificate has been issued by the Secretary under this sec-
18 tion who transfers possession of any handgun so registered,
19 shall within five days of such transfer, return to the Secretary
20 his registration certificate, noting on it the name and resi-
21 dence address of the transferee, and the date of such transfer.

22 “(ii) Any person licensed under section 923 shall not
23 accept possession of a handgun by way of pledge or pawn
24 without also taking and retaining, during the term of such
pledge or pawn, the Federal registration certificates issued

1 under this section. If such pledge or pawn is not redeemed,
2 such licensee shall return such registration certificate to the
3 Secretary and register the handgun in his own name.

4 “(iii) The executor or administrator of any estate con-
5 taining a registered handgun shall promptly notify the Sec-
6 retary of the death of the registered owner, return the cer-
7 tificate of registration of the deceased registered owner, and
8 register the handgun in the name of the estate according to
9 the provisions of this section. The executor or administrator
10 of an estate containing an unregistered handgun shall
11 promptly surrender such handgun to the Secretary or his
12 designee without compensation and shall not be subject
13 to any penalty for any prior failure to register such handgun.

14 “(iv) Any person possessing a handgun shall within ten
15 days notify the Secretary (in a manner to be prescribed by
16 the Secretary) of the loss, theft, or destruction of the hand-
17 gun, and shall notify the Secretary of any recovery of such
18 handgun occurring subsequent to the date of notification of
19 loss under this clause.

20 “(8) Any person to whom a handgun registration cer-
21 tificate has been issued by the Secretary under this section
22 shall exhibit his registration certificate upon demand of a
23 law enforcement officer.

24 “(b) (1) No person other than a licensed importer,
25 licensed dealer, licensed manufacturer, or licensed collector

1 shall knowingly possess or receive possession of any hand-
2 gun or ammunition of a caliber other than .22 rimfire for use
3 in any handgun unless such person has filed an application
4 with and received a Federal handgun license from the Sec-
5 retary pursuant to this subsection.

6 “(2) No person (except as provided in subsection (d)
7 of this section), shall transfer possession of any handgun or
8 ammunition of a caliber other than .22 rimfire for use in any
9 handgun unless such person has filed an application with and
10 received a Federal handgun license from the Secretary.

11 “(3) No person shall transfer possession of any hand-
12 gun or ammunition of a caliber other than .22 rimfire for use
13 in any handgun unless the transferee (other than a licensed
14 importer, licensed dealer, licensed manufacturer, or licensed
15 collector) displays a license issued under this subsection.
16 Where the transferee is a licensed importer, licensed dealer,
17 licensed manufacturer, or licensed collector, no person shall
18 transfer possession of any handgun or ammunition other
19 than .22 rimfire for use in any handgun unless such trans-
20 ferce displays a license issued under section 923.

21 “(4) The application for a Federal handgun license
22 shall be in such form and contain such information as the
23 Secretary shall by regulation prescribe, including—

24 “(A) the name, current address, date of birth, place
25 of birth, and signature of the applicant,

1 “(B) a statement signed by the applicant (in such
2 form as the Secretary shall by regulation prescribe)
3 that the applicant may lawfully possess handguns and
4 ammunition under the laws of the United States and of
5 the State and political subdivision wherein he resides,
6 and

7 “(C) a complete set of the applicant’s fingerprints
8 and a photograph reasonably identifying the applicant.

9 “(5) Upon the filing of a proper application and pay-
10 ment of the prescribed fee, the Secretary shall issue a Fed-
11 eral handgun license to the applicant, and such license shall
12 be valid for a period not to exceed three years. Any such
13 license may be renewed upon the expiration of the initial
14 licensing period, and periodically thereafter, for periods (not
15 to exceed three years each) to be prescribed by the Secre-
16 tary. The Secretary shall by regulation prescribe the applica-
17 tion requirements and form for such renewal applications.

18 “(6) An applicant for a Federal handgun license shall
19 pay a fee for obtaining such a license in the amount of \$5,
20 and a fee for renewing any such license in the amount of \$5.

21 “(7) (A) The Secretary shall not approve any applica-
22 tion submitted under this subsection if—

23 “(i) the applicant is under eighteen years of age;

24 “(ii) the applicant is, because of alcoholism, drug

1 addiction, or mental disease or defect, an individual who
2 cannot possess or use handguns safely or responsibly;

3 “(iii) the applicant has been convicted in any
4 court of a crime punishable by imprisonment for a term
5 exceeding one year;

6 “(iv) the applicant is a fugitive from justice;

7 “(v) the applicant is not of good moral character;

8 or

9 (vi) the applicant is not qualified under all appli-
10 cable Federal, State, and local laws.

11 “(B) In making determinations under subparagraph
12 (A) (ii) above, an applicant may submit, with his applica-
13 tion or subsequent to his initial application, to the Secretary
14 or his authorized representative, a statement from a duly
15 licensed physician stating that, in the opinion of such physi-
16 cian, such person is not by reason of alcoholism, drug addic-
17 tion, or mental disease or defect physically or mentally un-
18 fit to possess a handgun. The provisions of this subparagraph
19 shall be considered to establish a presumption of fitness on
20 behalf of any person submitting such a statement. Such pre-
21 sumption may be rebutted by clear and convincing evidence
22 to the contrary.

23 “(c) Denials by the Secretary of an application for
24 registration of a handgun, or for a Federal handgun license,

1 or renewals shall be subject to the provisions of chapter 5,
2 title 5, United States Code. Any person aggrieved by the
3 action of the Secretary shall have the right to judicial re-
4 view of such action in accordance with the provisions of
5 chapter 7 of title 5 of the United States Code.

6 “(d) Notwithstanding the provisions of subsection (b),
7 and except as otherwise prohibited by this chapter or by
8 the laws of any State or political subdivision thereof, any
9 person licensed under section 923 may transfer a handgun
10 or handgun ammunition of a caliber other than .22 rimfire
11 to a person only if such licensee confirms that the purchaser
12 has been issued a valid Federal handgun license or a
13 Federal dealer's license and notes the number of such hand-
14 gun or dealer's license in the records required to be kept by
15 section 923 (g) . .

16 “(e) (1) Information required to be included in any
17 application, form, certificate, or license submitted to or issued
18 by the Secretary under this section shall not be disclosed
19 by him except to the National Crime Information Center es-
20 tablished by the Federal Bureau of Investigation, and to law
21 enforcement officers requiring such information in pursuit of
22 their official duties.

23 “(2) When requested by the Secretary, Federal depart-
24 ments and agencies shall assist the Secretary, to the extent
25 permitted by law, in the administration of this section.

21

1 “(f) Whenever the Secretary makes a finding under
2 section 922 (n) that a handgun model is not approved for
3 sale or delivery by a licensee under this chapter, the Secre-
4 tary shall cause notice to be given to all persons in posses-
5 sion of handguns, the handgun model of which has not been
6 approved, of such disapproval. Notwithstanding any other
7 provision of law, not later than sixty days after receipt of
8 such notice, any person so notified may transfer such hand-
9 gun as provided in section 926. No criminal penalty shall
10 attach by reason of possession of any such handgun in viola-
11 tion of the provisions of this chapter until sixty days have
12 passed since receipt of such notice.

13 “(g) For purposes of this section—

14 “(1) the terms ‘possess’ and ‘possession’ means as-
15 serting ownership or having custody and control;

16 “(2) the term ‘transfer’ means all sales, gifts, be-
17 quests, loans, and other means of acquiring possession
18 of a handgun from the transferor to another person;

19 “(3) the ‘person’ means all individuals, corpora-
20 tions, companies, associations, firms, partnerships, clubs,
21 societies, joint stock companies, and estates; and

22 “(4) the term ‘registered owner’ means the person
23 in possession of a handgun which is registered under
24 this section and to whom the Federal registration certi-
ficate has been issued.”

1 (b) The table of sections of chapter 44 of title 18,
2 United States Code, is amended by inserting—

“923A. Registration and licensing of handguns.”

3 immediately after

“923. Licensing.”.

4 SEC. 7. Section 924 of such title 18 is amended by add-
5 ing at the end thereof the following new subsections:

6 “(e) Whoever violates any provision of section 923A
7 of this chapter shall be fined not more than \$5,000, or im-
8 prisoned not more than five years, or both.

9 “(f) Whoever knowingly falsifies any information re-
10 quired to be filed with the Secretary pursuant to section
11 923A of this chapter, or forges or alters any certificate
12 of registration, or license issued or retained under such sec-
13 tion, shall be fined not more than \$10,000, or imprisoned
14 for not more than five years, or both.”.

15 SEC. 8. (a) Section 925 (a) of such title 18 is
16 amended—

17 (1) by inserting in paragraph (1) immediately
18 after “chapter” the following: “(except as provided in
19 section 923A (a)) ”; and

20 (2) by inserting in paragraph (2) immediately
21 after “chapter” the following: “(except as provided
22 in section 923A (a) ”.

23 (b) The first sentence of section 925 (c) of such title

1 18 is amended by striking out “(other than a crime in-
2 volving the use of a firearm or other weapon or a violation
3 of this chapter or of the National Firearms Act)” and in-
4 serting in lieu thereof the following: “(other than a crime
5 involving the use of a firearm or other weapon or a viola-
6 tion of any section of this chapter except section 923A or
7 of the National Firearms Act)”.

8 (c) Section 925(d) (3) of such title 18 is amended
9 to read as follows:

10 “(3) is of a type that does not fall within the defini-
11 tion of a firearm as defined in section 5845(a) of the
12 Internal Revenue Code of 1954; is not a surplus mili-
13 tary firearm; and if a handgun, has been approved by
14 the Secretary pursuant to section 922(n) of this title;
15 or”.

16 SEC. 9. (a) Sections 926, 927, and 928 of such title 18,
17 and all references thereto, are redesignated as sections 927,
18 928, and 929, respectively.

19 (b) Chapter 44 of such title 18 is further amended by
20 inserting after section 925 the following new section:

21 **“§ 926. Compensation for reasonable value of handguns**
22 **voluntarily transferred to law enforcement agen-**
23 **cies**

24 “(a) A person may at any time transfer to any Federal,
25 State, or local law enforcement agency designated by the

1 Secretary any handguns owned or possessed by such person.

2 “(b) In the case of transfer pursuant to subsection

3 (a), the person transferring such handgun shall, upon proof

4 that such handgun was lawfully acquired and lawfully owned

5 by such person prior to enactment of the Handgun Control

6 Act of 1975, be entitled to receive from the United States

7 a payment equal to the reasonable value of such handgun,

8 such value to be determined as of the day before enactment

9 of the Handgun Control Act of 1975.”

10 SEC. 10. Section 927 (as redesignated by section 9 of

11 this Act) of such title 18 is amended to read as follows:

12 **“§ 927. Rules and regulations; periods of amnesty**

13 “(a) The Secretary may prescribe such other rules and

14 regulations as he deems reasonably necessary to carry out

15 the provisions of this chapter, including—

16 “(1) regulations providing that a person licensed

17 under this chapter, when dealing with another person so

18 licensed, shall provide such other licensed person a cer-

19 tified copy of such license;

20 “(2) regulations providing for the issuance, at a

21 reasonable cost, to a person licensed under this chapter,

22 of certified copies of his license for use as provided under

23 regulations issued under paragraph (1) of this subsec-

viding reasonable requirements

1 for the marking of handguns that do not have serial
2 numbers.

3 The Secretary shall give reasonable public notice, and afford
4 to interested parties opportunity for hearing, prior to pre-
5 scribing such rules and regulations.

6 “(b) The Secretary may declare periods of amnesty
7 for the registration of handguns under section 923A or the
8 transfer to any Federal, State, or local law enforcement
9 agency of any handgun under section 926.”

10 SEC. 11. There are hereby authorized to be appropriated
11 such sums as may be necessary to carry out the purposes of
12 this Act.

13 SEC. 12. (a) The provisions of this Act shall take effect
14 immediately upon enactment, except that sections 4 and 8
15 of this Act shall take effect sixty days after the date of
16 enactment and section 923A (a) of such title 18, as added
17 by section 6 of this Act, shall take effect as provided in sub-
18 section (b) of this section.

19 (b) Section 923A of such title 18, as added by sec-
20 tion 6 of this Act, shall take effect six months after the date
21 of enactment of this Act. Each person within any State who
22 possesses any handgun on the effective date of such sec-
23 tion shall, within sixty days following such effective date,
24 complete the registration and licensing required by the pro-
25 visions of such section. Each person within any State who

1 purchases a handgun after such effective date shall, within
2 sixty days following such date or thirty days following such
3 purchase, whichever is later, complete the registration re-
4 quired by such section.

94TH CONGRESS
1ST SESSION

H. R. 2313

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 1975

Mr. FAUNTROY introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit the importation, manufacture, sale, purchase, transfer, receipt, transportation, possession, and ownership of handguns, except in certain circumstances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Handgun Control Act
4 of 1975".

5 SEC. 2. The Congress finds that—

6 (a) annual sales of handguns in the United States
7 have risen sharply in the last decade, bringing the total
8 number of handguns in private hands to in excess of
9 twenty-five million;

★I—O

2

1 (b) handguns play a major role, and a role dispro-
2 portionate to their number in comparison with long
3 guns, in the commission of homicide, aggravated assault,
4 and armed robbery, and that the percentage of violent
5 crimes in which handguns are used is increasing;

6 (c) most homicides are committed in altercations
7 between relatives, neighbors, or other acquaintances,
8 rather than in a confrontation between strangers;

9 (d) violent crimes perpetrated with handguns con-
10 stitute a burden upon and interfere with interstate and
11 foreign commerce and threaten the internal security and
12 domestic tranquillity of the Nation;

13 (e) fear of crimes involving handguns discourages
14 citizens from traveling between the States to conduct
15 business or to visit the Nation's Capital;

16 (f) crimes committed with handguns have disrupted
17 our national political processes, and threaten the republi-
18 can form of government within the States as guaranteed
19 under article IV of the Constitution.

20 SEC. 3. (a) (1) Title 18, United States Code, is amended
21 by inserting immediately after chapter 44 the following
22 new chapter:

Chapter 44A—HANDGUNS

"Sec.

"931. Definitions.

"932. Unlawful acts.

"933. Records; inspection.

"934. Licensing of pistol clubs.

"935. Penalties.

"936. Exemptions.

"937. Voluntary surrender of handguns.

"938. Reporting loss or theft of a handgun.

"939. Effect on State law.

§ 931. Definitions

"As used in this chapter—

"(1) The term 'importer' means any person engaged in the business of importing or bringing handguns into the United States for purposes of sale or distribution; and the term 'licensed importer' means any such person who is a licensed importer as defined in chapter 44.

"(2) The term 'manufacturer' means any person engaged in the manufacture or assembly of handguns for purposes of sale or distribution; and the term 'licensed manufacturer' means any such person who is a licensed manufacturer as defined in chapter 44.

"(3) The term 'dealer' means any person who (A) is engaged in the business of selling handguns at wholesale or retail, (B) is engaged in the business of repairing handguns or of making or fitting special barrels, or trigger mechanisms to handguns, or (C) is a pawnbroker as defined in section 921 (a) (12); the term 'licensed dealer' means any such person who is a licensed dealer under chapter 44.

1 “(4) The term ‘Secretary’ means the Secretary of the
2 Treasury or his delegate.

3 “(5) The term ‘handgun’ means any weapon, including
4 any pistol or revolver, which—

5 “(A) has a barrel less than ten inches in length;
6 and

7 “(B) is designed, or can readily be converted—

8 “(i) to be fired while held in one hand, and

9 “(ii) to use the energy of an explosive to expel
10 a projectile or projectiles through its barrel;

11 other than any such weapon which was manufactured prior
12 to January 1, 1890, or which the Secretary has certified is
13 unserviceable, not restorable to firing condition, and to be
14 used solely as a curio, museum piece, or collectors’ item.

15 “(6) The term ‘handgun ammunition’ means ammuni-
16 tion or cartridge cases, or bullets designed for use primarily
17 in handguns,

18 “(7) The term ‘pistol club’ means a club organized for
19 target shooting with handguns or to use handguns for sport-
20 ing or other recreational purposes, and meeting such other
21 requirements as the Secretary may by regulation establish;
22 and the term ‘licensed pistol club’ means a pistol club which
23 is licensed under this chapter.

24 **“§ 932. Unlawful acts**

25 “(a) Except as provided in section 936, it shall be

1 unlawful for any person to import, manufacture, sell, buy,
2 transfer, receive, or transport any handgun or handgun
3 ammunition.

4 “(b) Except as provided in section 936, it shall be
5 unlawful for any person to own or possess any handgun or
6 handgun ammunition.

7 “(c) It shall be unlawful for any importer, manufac-
8 turer, or dealer to sell or otherwise transfer any handgun or
9 handgun ammunition which is exempted under section 936
10 from the provisions of subsections (a) and (b) of this section
11 to any person other than a person who is a licensed importer,
12 licensed manufacturer, or licensed dealer, without presenta-
13 tion by such person of such written verification as the
14 Secretary may by regulation prescribe that the receipt or
15 purchase of such handgun or handgun ammunition is being
16 made by or on behalf of a person or governmental entity
17 eligible to obtain and possess handguns under section 936 (a)
18 or a licensed pistol club.

19 **“§ 933. Records; inspection**

20 “(a) Every manufacturer, importer, or dealer who sells
21 or otherwise transfers handguns or handgun ammunition shall
22 maintain such records of any sale or transfer of handguns and
23 handgun ammunition as the Secretary may by regulation re-
24 quire, shall permit the Secretary to enter his premises at
25 reasonable times for the purpose of inspecting such records,

1 and shall submit to the Secretary such reports with respect
2 to such records as he may by regulation require.

3 “(b) Each licensed pistol club shall maintain such rec-
4 ords of the receipt, sale, or other disposition, of any of its
5 handguns or any of the handguns of its members as the Sec-
6 retary may by regulation require, shall make such records
7 available for inspection by the Secretary at all reasonable
8 times, and shall submit to the Secretary such reports with
9 respect to such records as he may by regulation require. The
10 Secretary may enter at reasonable times the premises (in-
11 cluding places of storage) of any pistol club for the purpose
12 of inspecting or examining (1) any records or documents
13 required to be kept by such pistol club under the provisions
14 of this chapter or of chapter 44, and (2) any handguns or
15 handgun ammunition kept or stored by such pistol club at
16 such premises.

17 “(c) Every professional security guard service which
18 is authorized under this chapter to purchase, receive, own,
19 possess, or transport handguns shall maintain such records
20 of the receipt, sale, ownership, and possession (including
21 records of the date, time, and place of every use), of any hand-
22 gun in its possession or control, as the Secretary may by regu-
23 lation require, shall permit the Secretary to enter its premises
24 at reasonable times for the purpose of inspecting any such
25 records and shall submit to the Secretary such reports with

1 respect to such records as he may by regulation require.

2 **"§ 934. Licensing of pistol clubs**

3 “(a) A pistol club desiring to be licensed under this
4 chapter may file an application for a license with the Secre-
5 tary. The application shall be in such form and contain
6 such information as the Secretary may by regulation pre-
7 scribe. The Secretary may establish a reasonable filing fee
8 to cover the administrative costs of processing applications.

9 “(b) The Secretary shall approve an application filed
10 by a pistol club under subsection (a) and shall issue a license
11 to such pistol club if—

12 “(1) no member of such pistol club is a person
13 whose membership or participation in the club is in vio-
14 lation of any applicable State law;

15 “(2) no member of such pistol club is prohibited
16 from transporting, shipping, or receiving firearms or
17 ammunition in interstate or foreign commerce under
18 sections 922 (g) or (h) of this title;

19 “(3) no member of such pistol club has willfully
20 violated any of the provisions of this chapter or of
21 chapter 44 or any regulations issued thereunder;

22 “(4) such pistol club has not willfully failed to dis-
23 close any material information required, or has not made
24 any false statement as to any material fact in connection
with its application:

1 “(5) such pistol club has been founded and operated
2 for bona fide target or sport shooting and other legitimate
3 recreational purposes;

4 “(6) such pistol club has premises from which it
5 operates; and

6 (7) such pistol club—

7 “(A) maintains possession and control of all
8 handguns used or owned by its members;

9 “(B) permits such handguns to be used only
10 by its members;

11 “(C) has procedures and facilities for stor-
12 ing such handguns in a secure place under the con-
13 trol of the club’s chief officer, or has arranged for the
14 storage of such guns in a facility of a local police
15 department or other law enforcement agency, at all
16 times when they are not being used for target shoot-
17 ing or other sporting or recreational purposes;

18 “(D) maintains records in accordance with sec-
19 tion 933 (b) of the date, time, and place of every
20 use of each handgun in its possession and control;
21 and

22 “(E) has established such procedures as the
23 Secretary may by regulation prescribe for monitor-
24 ing the use of all handguns in its possession or
25 control,

1 “(c) (1) The Secretary shall approve or deny an
2 application for a license within the sixty-day period begin-
3 ning on the date it is filed. If the Secretary fails to
4 either approve or disapprove an application for a license
5 within such period, the applicant may file an action under
6 section 1361 of title 28 to compel the Secretary to act.

7 “(2) The Secretary may, after notice and opportunity
8 for hearing, revoke any license issued under this section if
9 the holder of such license (A) has violated any provision of
10 this chapter or of chapter 44 of this title or any rule or
11 regulation prescribed by the Secretary under such chapters,
12 or (B) no longer meets the requirements prescribed in sub-
13 section (b) for the issuance of a license. The Secretary's
14 action under this paragraph may be reviewed only as pro-
15 vided in subsection (d) of this section.

16 “(3) The Secretary shall give written notice to any
17 pistol club whose application for a license under this section
18 is denied or whose license is revoked. Such notice shall state
19 the specific grounds upon which the application was denied
20 or the license revoked, as the case may be. Any notice of
21 revocation of a license shall be given to the holder of such
22 license before the effective date of the revocation.

23 “(4) If the Secretary denies an application for a license,
24 he shall, upon request by the aggrieved party, promptly hold

1 a hearing to review his denial, such hearing to be held at a
2 location convenient to the aggrieved party. If after such hear-
3 ing the Secretary decides not to reverse his decision to deny
4 the application for a license, he shall give notice of his decision
5 to the aggrieved party. Unless review has been requested
6 under this paragraph, a pistol club may not obtain judicial
7 review of a denial of its application for a license.

8 “(d) Any pistol club whose license is revoked or whose
9 application for a license is denied, may file, at any time within
10 the sixty-day period beginning on the date on which notice
11 was given under subsection (c) (3) in the case of a pistol club
12 whose license is revoked or under subsection (c) (4) in the
13 case of a pistol club whose application for a license is denied,
14 a petition with the United States district court for the district
15 in which he resides or has his principal place of business for a
16 judicial review of such denial or revocation. In a proceeding
17 conducted under this subsection, the court may consider any
18 evidence submitted by the parties to the proceeding. If the
19 court decides that the Secretary was not authorized to deny
20 the application or to revoke the license, the court may order
21 the Secretary to issue a license to the pistol club or to rescind
22 the revocation of the license of the pistol club, as may be
23 appropriate.

24 “(e) Licenses issued under this section shall be kept

1 posted and kept available for inspection on the premises
2 covered by the license.

3 “(f) A license issued under this section to a pistol club
4 shall remain in effect, unless revoked, during the three-year
5 period beginning on the date of issuance, except that in the
6 case of a license issued to a licensed pistol club whose existing
7 license is about to expire, the three-year period shall begin on
8 the expiration date of such existing license.

9 **“§ 935. Penalties**

10 “(a) Whoever violates any provision of sections 932
11 (a) or (c) shall be fined not more than \$5,000, or impris-
12 oned not more than five years, or both.

13 “(b) Whoever violates any provision of section 932 (b)
14 shall be fined not more than \$2,000, or imprisoned not more
15 than two years, or both.

16 “(c) Whoever fails to keep any records required to be
17 kept under this chapter or knowingly makes any false state-
18 ment or representation with respect to any information re-
19 quired to be kept in any such records or required to be included
20 in an application for a pistol club license, shall be fined not
21 more than \$5,000, or imprisoned not more than five years,
22 or both.

23 “(d) Any handgun or handgun ammunition involved or
24 used in, or intended to be used in, any violation of any pro-

1 vision of this chapter or any regulation promulgated under
2 this chapter shall be subject to seizure and forfeiture, in
3 accordance with the applicable provisions of the Internal
4 Revenue Code of 1954 relating to the seizure, forfeiture,
5 and disposition of firearms.

6 **"§ 936. Exemptions**

7 " (a) Sections 932 (a) and (b) shall not apply to the
8 importation, manufacture, sale, purchase, transfer, receipt,
9 transportation, possession, or ownership of a handgun or
10 handgun ammunition to the extent that, as determined by
11 the Secretary, such handgun or handgun ammunition is being
12 imported or manufactured for, sold, or transferred to, pur-
13 chased, received, owned, possessed, or transported by, or
14 issued for the use of—

15 " (1) a professional security guard service which is
16 licensed to provide armed security guards for hire by
17 the State in which the handgun is to be used, which
18 maintains control over all its handguns and allows them
19 to be used only by employees who are trained in the
20 proper use of handguns and whose duties specifically
21 require the use of a handgun, and which takes such
22 steps as the Secretary may require to monitor the use
23 of all handguns in its possession or control; or

24 " (2) the United States or any department or
25 agency thereof, any State or any department, agency,

1 or political subdivision thereof, or any employee or agent
2 of any such governmental entity who is trained in the
3 proper use of handguns and whose official duties specifically
4 require the use of a handgun.

5 “(b) The Secretary, consistent with public safety and
6 necessity, may exempt from the provisions of sections 932
7 (a) and (b) such importation, manufacture, sale, purchase,
8 transfer, receipt, transportation, possession, and ownership
9 of handguns and handgun ammunition by licensed importers,
10 licensed manufacturers, licensed dealers, and licensed pistol
11 clubs (or the members of a licensed pistol club) as may in
12 his judgment be required for the operation of such pistol
13 clubs.

14 **“§ 937. Voluntary surrender of handguns**

15 “(a) (1) A person may at any time voluntarily deliver
16 to any Federal, State, or local law enforcement agency
17 designated by the Secretary a handgun owned or possessed
18 by such person. The Secretary shall arrange with each such
19 agency for the transfer, destruction, or other disposition of
20 all handguns delivered under this subsection.

21 “(2) Voluntary delivery of a handgun under paragraph
22 (1) does not constitute a transfer of such handgun within
23 the meaning of section 932 (a).

24 “(b) No person who has voluntarily delivered a hand-
25 gun to a law enforcement agency designated by the Secre-

1 tary may be prosecuted under this chapter for having owned,
2 possessed, received, or transported such handgun.

3 **"§ 938. Reporting loss or theft of a handgun**

4 "Any person who loses a handgun or from whom a hand-
5 gun is stolen shall report such fact to the Secretary within
6 thirty days after the discovery of such loss or theft, and
7 shall provide such information with respect to such handgun
8 and its loss or theft as the Secretary may by regulation
9 require.

10 **"§ 939. Effect on State law**

11 "The enactment of this chapter does not indicate an
12 intent on the part of the Congress to occupy any field in
13 which this chapter operates to the exclusion of the law of
14 any State on the same subject, unless there is a direct and
15 positive conflict between a provision of this chapter and the
16 law of the State so that the two cannot be reconciled or con-
17 sistently stand together."

18 (2) The title analysis at the beginning of title 18, United
19 States Code, is amended by inserting immediately after the
20 item relating to chapter 44 the following new item:

"44A. Handguns ----- 931".

21 (b) The Secretary of the Treasury may establish such
22 regulations as he deems necessary to carry out the provisions
23 of chapter 44A of title 18, United States Code.

1 (c) The Secretary of the Treasury shall have responsi-
2 bility for the enforcement and administration of such chapter
3 44A.

4 (d) Upon the request of the Secretary of the Treasury,
5 any instrumentality of the executive branch of the Federal
6 Government shall assist the Secretary in the administration
7 and enforcement of such chapter 44A.

8 SEC. 4. (a) (1) Subpart A of part IV of subchapter A
9 of chapter 1 of the Internal Revenue Code of 1954 (relating
10 to credits allowable against tax) is amended (A) by re-
11 designating section 42 as section 43, and (B) by inserting
12 immediately before such section the following new section:
13 **"SEC. 42. HANDGUNS DELIVERED TO LAW ENFORCEMENT**
14 **AGENCIES.**

15 "(a) GENERAL RULE.—In the case of an individual
16 who within the taxable year voluntarily delivers a hand-
17 gun which he lawfully owns to any law enforcement agency
18 designated by the Secretary under section 937 of title 18,
19 United States Code, there shall be allowed as credit against
20 the tax imposed by this subtitle for the taxable year, an
21 amount equal to the fair market value of the handgun or
22 \$25, whichever is greater.

23 "(b) TIME LIMITATION.—The credit allowed by sub-
24 section (a) shall be allowed only with respect to handguns

1 which are voluntarily delivered to a law enforcement agency
2 during the 6-month period beginning 6 months after the
3 date of enactment of the Handgun Control Act of 1975.

4 “(c) DEFINITIONS.—For purposes of this section—

5 “(1) HANDGUNS.—The term ‘handgun’ means any
6 handgun as defined in section 931 (5) of title 18, United
7 States Code.

8 “(2) FAIR MARKET VALUE.—The term ‘fair
9 market value’ means (with respect to a handgun) the
10 prevailing price, as determined by such method as the
11 Secretary shall establish, on the gun market immediately
12 prior to the date of enactment of the Handgun Control
13 Act of 1975 for a handgun of the type and quality of the
14 handgun for which the credit is allowed under this
15 section.”.

16 (2) The table of sections for such subpart A is amended
17 by striking out the item relating to section 42 and inserting
18 in lieu thereof the following:

“Sec. 42. Handguns delivered to law enforcement agencies.

“Sec. 43. Overpayments of tax.”.

19 (b) Section 6401 (b) of the Internal Revenue Code of
20 1954 (relating to excessive credits treated as overpayments)
21 is amended—

22 (1) by inserting “, 43 (relating to handguns

1 delivered to law enforcement agencies),” immediately
2 before “and 667 (b)”; and

3 (2) by striking out “31 and 39” and inserting in
4 lieu thereof “31, 39, and 42”.

5 SEC. 5. The provisions of this Act shall take effect on the
6 date of enactment of this Act, except that subsections (a) and
7 (c) of section 932 of title 18, United States Code (as added
8 by section 3 (a) (1) of this Act) shall not take effect until
9 6 months after the date of enactment and subsection (b) of
10 such section 932 (as added by section 3 (a) (1) of this Act)
11 shall not take effect until one year after the date of enactment
12 of this Act. The amendments made by section 4 of this Act
13 shall apply with respect to taxable years ending after the
14 end of the 6 month period beginning on the date of enact-
15 ment of this Act.

94TH CONGRESS
1ST SESSION

H. R. 2360

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 1975

Mr. Symms (for himself and Mr. Hansen of Idaho) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To repeal the Gun Control Act of 1968.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That chapter 44 of title 18 of the United States Code
4 known as the Gun Control Act of 1968, is hereby and the
5 same is repealed.

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94TH CONGRESS
1ST SESSION

H. R. 267

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 1975

Mr. BOLAND introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit the sale of "Saturday Night Special" handguns in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 921 (a) of title 18 of the United States
4 Code is amended by inserting after paragraph (20) the
5 following:

6 "(21) The term 'handgun' means a firearm designed to
7 be held and fired by the use of a single hand. The term
8 also includes a combination of parts in the possession or
9 under the control of a person from which a handgun can

1 be assembled. The term does not include antique firearms,
2 or any firearm which comes within the definition set forth
3 in section 5845 (n) of the Internal Revenue Code of 1954.

4 “(22) The term ‘basic structural component’ means any
5 or all of the following single parts (including a permanent
6 assembly forming such single part) of a handgun; frame,
7 barrel, cylinder, slide, and breechblock.”

8 SEC. 2. Section 922 of title 18 of the United States
9 Code is amended by adding at the end thereof the following:

10 “(n) It shall be unlawful for a licensed manufacturer
11 or licensed importer to manufacture, assemble, or import,
12 for the purpose of sale in the United States, any handgun,
13 knowing or having reasonable cause to believe the basic
14 structural components thereof are made (1) of any material
15 having a melting point (liquidus) of less than 1000 degrees
16 Fahrenheit, or (2) of any material having an ultimate tensile
17 strength of less than 55,000 pounds per square inch, or
18 (3) of any powdered metal having a density of less than
19 7.5 grams per cubic centimeter.”

20 SEC. 3. Section 925 (d) of title 18 of the United States
21 Code is amended—

22 (1) by striking out “or” at the end of paragraph
23 (3);

24 (2) by striking out the period at the end of para-
25 graph (4), and inserting “; or” in lieu thereof; and

1 (3) by inserting immediately after paragraph (4)
2 but before the final sentence the following new para-
3 graph:

4 “(5) is a handgun which is not prohibited from
5 being manufactured, imported, or assembled for sale in
6 the United States by section 922 (n) of this chapter.”

7 SEC. 4. The amendments made by this Act shall take
8 effect on and after the ninetieth day after the date of its en-
9 actment.

94TH CONGRESS
1ST SESSION

H. R. 2433

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 1975

Mr. DRINAN introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To substantially reduce the personal dangers and fatalities caused by the criminal and violent behavior of those persons who lawlessly misuse firearms by restricting the availability of such firearms for law enforcement; military purposes; and for certain approved purposes including sporting and recreational uses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Personal Safety Firearms
4 Act of 1973".

5 TITLE I—REGISTRATION

6 SEC. 101. Title 18, United States Code, is amended by
7 inserting after chapter 44 the following new chapter:

I

1 **"Chapter 44A.—FIREARM LICENSING**

"Sec.

"931. Definitions.

"932. Registration.

"933. Sales of firearms and ammunition.

"934. Penalties.

"935. Disposition of firearms to Secretary.

"936. Rules and regulations; periods of amnesty.

"937. Disclosure of information.

"938. Assistance to Secretary.

2 **"§ 931. Definitions**

3 **"As used in this chapter—**

4 **"(1) The term 'firearm' means a weapon (including**
5 **a hand-gun firearm and a starter gun) which will or is**
6 **designed to or may readily be converted to expel a projectile**
7 **by the action of an explosive, but shall not include a firearm**
8 **as that term is defined in chapter 53 of the Internal Revenue**
9 **Code of 1954 or an antique firearm as defined in section 921**
10 **of this title.**

11 **"(2) The term 'hand-held firearm' means any weapon**
12 **designed or redesigned to be fired while held in one hand;**
13 **having a barrel less than ten inches in length and designed**
14 **or redesigned or made or remade to use the energy of an**
15 **explosive to expel a projectile or projectiles through smooth**
16 **or rifled bore.**

17 **"(3) The term 'Secretary' means the Secretary of the**
18 **Treasury.**

19 **"(4) The term 'licensed dealer' means any importer,**

1 manufacturer, or dealer licensed under the provisions of
2 chapter 44 of this title.

3 “(5) The term ‘ammunition’ means ammunition or
4 cartridge cases, primers, bullets, or propellant powder de-
5 signed for use in any firearm.

6 “(6) The term ‘sell’ means give, bequeath, or other-
7 wise transfer ownership.

8 “(7) The term ‘possess’ means asserting ownership
9 or having custody and control not subject to termination by
10 another or after a fixed period of time.

11 **“§ 932. Registration**

12 “(a) It is unlawful for a person knowingly to possess a
13 firearm not registered in accordance with the provisions of
14 this section. This subsection shall not apply with respect to—

15 “(1) a firearm, previously not registered, if such a
16 firearm is held by a certified dealer for purposes of sale:
17 *Provided*, That records of such firearms are kept as may
18 be required by the Secretary;

19 “(2) a firearm possessed by a person on the effec-
20 tive date of this Act and continuously by such person
21 thereafter for a period not to exceed one hundred and
22 eighty days;

23 “(3) a firearm, previously not registered, possessed
24 by (A) the United States or any department or agency
25 thereof, or (B) any State or political subdivision thereof.

4

1 “(b) (1) A certified dealer who sells a firearm to a
2 person in whose possession the firearm must be registered
3 shall require from the purchaser a completed application for
4 registering the firearm and shall file the application with the
5 Secretary at the time of sale.

6 “(2) When a person other than a certified dealer sells
7 a firearm, the purchaser shall file an application for its regis-
8 tration with the Secretary prior to receipt of the firearm.

9 “(3) A person who possesses a firearm on the effective
10 date of this Act shall, unless he sooner sells the firearm, file
11 an application for registration of the firearm with the Secre-
12 tary within one hundred and eighty days.

13 “(c) An application for registration of a firearm shall
14 be in a form to be prescribed by the Secretary, which shall
15 include at least the following:

16 “(1) the name, address, date and place of birth,
17 photograph and social security or taxpayer identification
18 number of the applicant;

19 “(2) the name of the manufacturer, the caliber or
20 gage, the model and the type, and the serial number of
21 the firearm; and

22 “(3) the date, the place, and the name and address
23 of the person from whom the firearm was obtained, the
24 number of such person's certificate of registration of such

1 firearm, if any, and, if such person is a licensed dealer,
2 his license number.

3 “(d) An application for registration of a firearm shall
4 be in duplicate. The original application shall be signed by
5 the applicant and filed with the Secretary, either in person or
6 by certified mail, return receipt requested, in such place as
7 the Secretary by regulation may provide. The duplicate shall
8 be retained by the applicant as temporary evidence of regis-
9 tration. The Secretary, after receipt of a duly filed completed
10 application for registration, shall send to the applicant a
11 numbered registration certificate identifying such person as
12 the registered owner of such firearm.

13 “(e) The certified record of a firearm shall expire upon
14 any change of the name of the registered owner or residence
15 unless the Secretary is notified within thirty days of such
16 change.

17 “(f) It is unlawful for a person to carry a firearm re-
18 quired to be registered by this chapter without having a
19 registration certificate, or, if such certificate has not been
20 received, temporary evidence of registration, or to refuse
21 to exhibit such certificate or temporary evidence upon de-
22 mand of a law enforcement officer.

23 **“§ 933. Sales of firearms and ammunition**

24 “(a) A registrant of a firearm who sells the firearm

1 shall, within five days of the sale, return to the Secretary
2 his registration certificate, noting on it the name and resi-
3 dence address of the transferee, and the date of delivery.

4 “(b) Whoever acquires a firearm required to be regis-
5 tered by this chapter shall require the seller to exhibit a
6 registration certificate and shall note the number of the
7 certificate on his application for registration.

8 “(c) A licensed dealer shall not take or receive a fire-
9 arm by way of pledge or pawn without also taking and re-
10 taining during the term of such pledge or pawn the regis-
11 tration certificate.

12 “If such pledge or pawn is not redeemed the dealer shall
13 return the registration certificate to the Secretary and record
14 the firearm in his own name.

15 “(d) The executor or administrator of an estate contain-
16 ing a registered firearm shall promptly notify the Secretary
17 of the death of the registered owner and shall, at the time of
18 any transfer of the firearm, return the certificate of registra-
19 tion to the Secretary as provided in subsection (a) of this
20 section. The executor or administrator of an estate containing
21 an unrecorded firearm shall promptly record the firearm,
22 without penalty for any prior failure to record it.

23 “(e) Whoever possesses a firearm shall within ten days
24 notify the Secretary of a loss, theft, or destruction of the
25 firearm, and, after such notice, of any recovery.

1 “(f) A licensed dealer shall not sell ammunition to a
2 person for use in a firearm required to be registered without
3 requiring the purchaser to exhibit a certificate of registration
4 or temporary evidence of registration of a firearm which uses
5 such ammunition, and noting the certificate number or date
6 of the temporary evidence of registration on the records
7 required to be maintained by the dealer pursuant to section
8 923 (g) of this article.

9 **“§ 934. Penalties**

10 “(a) Whoever violates a provision of section 932 or
11 section 933 shall be punished by imprisonment not to exceed
12 five years, or by a fine not to exceed \$5,000, or both.

13 “(b) Whoever knowingly falsifies any information
14 required to be filed with the Secretary pursuant to this chap-
15 ter, or forges or alters any certificate of registration or tem-
16 porary evidence of registration, shall be punished by impris-
17 onment not to exceed five years or a fine not to exceed
18 \$10,000, or both.

19 “(c) Except as provided in subsection (b), no infor-
20 mation or evidence obtained from an application or certifi-
21 cate of registration required to be submitted or retained by
22 a natural person in order to comply with any provision of
23 this chapter, or regulations issued by the Secretary, shall be
24 used as evidence against that person in a criminal proceed-
25 ing with respect to a violation of law occurring prior to or

1 concurrently with the filing of the application for registration
2 containing the information or evidence.

3 **“§ 935. Disposition of firearms to Secretary**

4 “(a) The Secretary is authorized to pay reasonable
5 value for firearms voluntarily relinquished to him.

6 “(b) A person who lawfully possessed a firearm prior
7 to the operative effect of any provision of this title, and who
8 becomes ineligible to possess such firearm by virtue of such
9 provision, shall receive reasonable compensation for the fire-
10 arm upon its surrender to the Secretary.

11 **“§ 936. Rules and regulations; periods of amnesty**

12 “The Secretary may prescribe such rules and regula-
13 tions as he deems reasonably necessary to carry out the
14 provisions of this chapter, including reasonable requirements
15 for the marking of firearms that do not have serial numbers,
16 and may declare periods of amnesty for the registration of
17 firearms.

18 **“§ 937. Disclosure of information**

19 “Information contained on any certificate of registration
20 or application therefor shall not be disclosed except to the
21 National Crime Information Center established by the Fed-
22 eral Bureau of Investigation, and to law enforcement officers
23 requiring such information in pursuit of their official duties.

1 **“§ 938. Assistance to the Secretary**

2 “When requested by the Secretary, Federal depart-
3 ments and agencies shall assist the Secretary in the admin-
4 istration of this title.”

5 **TITLE II—LICENSING**

6 **SEC. 201.** Chapter 44 of title 18, United States Code,
7 is amended by inserting after section 923 the following new
8 section:

9 **“§ 923A. State permit systems; Federal firearms licensing**

10 “(a) The Secretary shall determine which States or
11 political subdivisions of States have enacted or adopted ade-
12 quate permit systems for the possession of firearms and shall
13 publish in the Federal Register the names of such States
14 and political subdivisions.

15 “(b) An adequate permit system shall include provi-
16 sions for—

17 “(1) identification of the permitholder appearing
18 on the permit including name, address, age, signature,
19 and photograph;

20 “(2) restrictions on issuance of a permit to a per-
21 son who is under indictment or who has been convicted
22 in any court of a crime punishable by imprisonment for

1 a term exceeding one year, or who is a fugitive from
2 justice;

3 “(3) restrictions on issuance of a permit to a person
4 who, by reason of age, mental condition, alcoholism,
5 drug addiction or previous violations of firearms laws
6 cannot be relied upon to possess or use firearms safely
7 and responsibly;

8 “(4) means of investigation of applicants for per-
9 mits to determine their eligibility under subparagraphs
10 (2) and (3), including filing with the issuing agency a
11 complete set of fingerprints and a recent photograph of
12 the applicant; and

13 “(5) prohibition of possession of firearms or am-
14 munition by any person who has not been issued such
15 a permit.

16 “(c) It shall be unlawful for any person to sell or other-
17 wise transfer any firearm or ammunition to any person
18 (other than a licensed importer, licensed manufacturer, or
19 licensed dealer) unless:

20 “(1) the sale or transfer is not prohibited by any
21 other provision of this chapter; and

22 “(2) the purchaser or transferee exhibits a valid
23 permit issued to him by a State or political subdivision
24 having an adequate permit system, or the purchaser or

1 transferee exhibits a valid Federal gun license issued in
2 accordance with subsections (d) and (e).

3 “(d) A licensed dealer shall issue a Federal gun license
4 to a person upon presentation of—

5 “(1) a valid official document issued by the per-
6 son’s State or political subdivision, showing his name,
7 current address, age, signature, and photograph.

8 “(2) a statement, in a form to be prescribed by
9 the Secretary and dated within six months and signed
10 by the chief law enforcement officer (or his delegate)
11 of the locality of residence of the person, that to the
12 best of that officer’s knowledge that person is not under
13 indictment, has not been convicted in any court of a
14 crime punishable by imprisonment for a term exceeding
15 one year, is not a fugitive from justice, and is not other-
16 wise prohibited by any provision of Federal, State, or
17 local law from possessing firearms and ammunition;

18 “(3) a statement in a form to be prescribed by a
19 Secretary, dated within six months and signed by a
20 licensed physician, that in his professional opinion such
21 person is mentally and physically capable of possessing
22 and using a firearm safely and responsibly;

23 “(4) a statement signed by the person in a form to
24 be prescribed by the Secretary, that he may lawfully

1 possess firearms and ammunitions under the laws of the
2 United States and of the State and political subdivision
3 of his residencee;

4 “(5) a complete set of such person’s fingerprints
5 certified to by a Federal, State, or local law enforcement
6 officer, and a photograph reasonably identifying the
7 person.

8 “(c) Federal gun licenses shall be issued in such form
9 as the Secretary may prescribe, and shall be valid for a period
10 not to exceed three years. A dealer shall maintain a record
11 of all licenses issued by him as part of the records required to
12 be maintained by section 923 (G) of this chapter, and shall
13 forward to the Secretary the documents described in sub-
14 paragraphs (d) (2) – (d) (5).

15 “(f) Any person denied a Federal gun license under
16 subsection (d) may apply directly to the Secretary for the
17 issuance of a Federal gun license.

18 “(g) Unless otherwise prohibited by this chapter, a
19 licensed dealer may ship a firearm or ammunition to a person
20 only if the dealer confirms that the purchaser has been issued
21 a valid permit pursuant to an adequate State permit system, a
22 Federal gun license, or a Federal dealer’s license, and notes
23 the number of such permit or license in the records required
24 to be kept by section 923 of this chapter.

25 “(h) No person may possess a firearm or ammunition

1 without a valid State or local permit, if he is resident of a
2 State or locality having an adequate permit system, or a
3 Federal gun license.

4 “(i) Determinations of adequate permit systems and
5 denials by the Secretary of Federal gun licenses shall not be
6 subject to the provisions of chapter 5, title 5, United States
7 Code, but actions of the Secretary shall be reviewable de
8 novo pursuant to chapter 7, title 5, United States Code, in
9 an action instituted by any person, State, or political sub-
10 division adversely affected.”

11 TITLE III—SPECIFICATIONS FOR APPROVED
12 HANDGUNS

13 SEC. 301. Section 922 of such title 18 is amended by
14 adding at the end thereof the following new subsections:

15 “(n) The Secretary shall not approve for sale or de-
16 livery by a licensed dealer, licensed importer, licensed man-
17 ufacturer, or licensed collector any handgun model unless he
18 has caused to be evaluated and tested representative samples
19 of such handgun model and finds that—

20 “(1) in the case of a pistol, the handgun model—

21 “(A) has a positive manually operated safety
22 device,

23 “(B) has a combined length and height in ex-
24 cess of ten inches with the height (right angle
25 measurement to the barrel without the magazine

1 or extension) being at least four inches and the
2 length being at least six inches, and

3 “(C) attains a total of at least seventy-five
4 points under the following criteria:

5 “(i) OVERALL LENGTH.—one point for
6 each one-fourth inch over six inches;

7 “(ii) FRAME CONSTRUCTION.—(I) fif-
8 teen points if investment cast steel or forged
9 steel, and (II) twenty points if investment
10 cast HTS alloy or forged HTS alloy;

11 “(iii) PISTOL WEIGHT.—one point for
12 each ounce, with the pistol unloaded and the
13 magazine in place;

14 “(iv) CALIBER.—(I) zero points if the
15 pistol accepts only .22 caliber short or .25
16 caliber automatic ammunition, (II) three
17 points if the pistol accepts either .22 caliber
18 long rifle ammunition or any ammunition with-
19 in the range delimited by 7.65 millimeter and
20 .380 caliber automatic, (III) 10 points if the
21 pistol accepts 9 millimeter parabellum ammuni-
22 tion or over, and (IV) in the case of ammuni-
23 tion not falling within one of the classes enu-
24 merated in subclauses (I) through (III), such
25 number of points not greater than ten (follow-

ing the classification schedule of clause (iv) as nearly as is practicable) as the Secretary shall determine appropriate to the suitability for sporting purposes of handgun models designed for such ammunition;

“(v) SAFETY FEATURES.—(I) five points if the pistol has a locked breech mechanism, (II) five points if the pistol has a loaded chamber indicator, (III) three points if the pistol has a grip safety, (IV) five points if the pistol has a magazine safety, (V) ten points if the pistol has a firing pin block or lock; and

“(vi) MISCELLANEOUS EQUIPMENT.—(I) two points if the pistol has an external hammer, (II) ten points if the pistol has a double action firing mechanism, (III) five points if the pistol has a drift adjustable target sight, (IV) ten points if the pistol has a click adjustable target sight, (V) five points if the pistol has target grips, and (VI) two points if the pistol has a target trigger;

“(2) in the case of a revolver, the handgun model—

“(A) has an overall frame length of four and one-half inches measured on a line parallel to the barrel,

1 “(B) has a barrel length of at least three
2 inches,

3 “(C) has a safety device which (i) auto-
4 matically in the case of a double action firing mech-
5 anism or (ii) by manual operation in the case of
6 a single action firing mechanism, causes the ham-
7 mer to retract to a point where the firing pin does
8 not rest upon the primer of the cartridge, and which,
9 when activated, is capable of withstanding the im-
10 pact of a weight, equal to the weight of the revolver,
11 dropped a total of five times from a height of thirty-
12 six inches above the rear of the hammer spur onto
13 the rear of the hammer spur with the revolver rest-
14 ing in a position such that the line of the barrel is
15 perpendicular to the plane of the horizon, and

16 “(D) attains a total of at least forty-five points
17 under the following criteria:

18 “(i) BARREL LENGTH.—one-half point for
19 each one-fourth inch that the barrel is longer
20 than four inches;

21 “(ii) FRAME CONSTRUCTION.—(I) fifteen
22 points if investment cast steel or forged steel,
23 (II) twenty points if investment cast HTS
24 alloy or forged HTS alloy;

1 “(iii) REVOLVER WEIGHT.—one point for
2 each ounce with the revolver unloaded;

3 “(iv) CALIBER.—(I) zero points if the
4 revolver accepts only .22 caliber short or .25
5 caliber ACP, (II) three points if the revolver
6 accepts .22 caliber long rifle or ammunition
7 in the range between .30 caliber and .38 S&W,
8 (III) four points if the revolver accepts .38
9 caliber special ammunition, (IV) five points
10 if the revolver accepts .357 magnum or over,
11 and (V) in the case of ammunition not fall-
12 ing within one of the classes enumerated in
13 subclauses (I) through (IV), such number of
14 points not greater than five (following the
15 classification schedule of clause (iv) as nearly
16 as practicable) as the Secretary shall deter-
17 mine appropriate to the suitability for sporting
18 purposes of handgun models designed for such
19 ammunition; and

20 “(v) MISCELLANEOUS EQUIPMENT.—(I)
21 five points if the revolver has either drift or
22 click adjustable target sights, (II) five points
23 if the revolver has target grips, and (III) five

1 points if the revolver has a target hammer
2 and a target trigger; and

3 “(3) the handgun model also meets such additional
4 standards as the Secretary may by regulation promul-
5 gate, after consultation with the Chief of Army Ordnance
6 and the Secretary of Commerce, if the Secretary deter-
7 mines that changes in the technology or manufacture of
8 handguns, or actions tending to circumvent the intent
9 of this subsection that approval of only those handgun
10 models which are generally recognized as particularly
11 suitable for sporting purposes be allowed, have rendered
12 inadequate the standards set forth in paragraphs (1)
13 and (2) of this subsection, except that the Secretary
14 shall not promulgate any such regulation which would
15 permit the approval for sale or delivery of any handgun
16 model which could not have been approved in the ab-
17 sence of such regulation.

18 “(o) It shall be unlawful for any person to reduce the
19 length of the barrel or the overall length of a handgun pre-
20 viously approved by the Secretary for sale and delivery if
21 as a result of such modification the handgun no longer meets
22 the standards for approval set forth in subsection (n) of this
23 section.

24 “(p) The Secretary shall give written notification of
the results of evaluation and testing conducted pursuant to

1 subsection (n) of this section to the licensee submitting
2 samples of a handgun model for such evaluation and testing.
3 If any handgun model fails to meet the standards for ap-
4 proval, the Secretary's notification shall state specifically
5 the reasons for such finding. Any such notification of ap-
6 proval or failure shall be published in the Federal Register.
7 At least once each year the Secretary shall compile a list
8 of all handgun models which are then approved for sale or
9 delivery under subsection (n) of this section, which list
10 shall be published in the Federal Register and furnished
11 annually to each licensee under this chapter.

12 “(q) Any licensee submitting to the Secretary for test-
13 ing a handgun model which is subsequently found not in com-
14 pliance with relevant standards shall have ten days from re-
15 ceipt of notification of noncompliance within which to submit
16 in writing specific objections to such finding and a request
17 for retesting such model, together with justification therefor.
18 Upon receipt of such a request the Secretary shall promptly
19 arrange for retesting and thereafter notify the aggrieved party
20 of the results, if he determines sufficient justification for re-
21 testing exists. Should he determine that retesting is not war-
22 ranted, the Secretary shall promptly notify the aggrieved
23 party as to such determination. In the event that upon re-
24 testing the Secretary's finding remains adverse, or that the
25 Secretary finds retesting is not warranted, the aggrieved

1 party may within sixty days after the date of the Secretary's
2 notice of such finding file a petition in the United States dis-
3 trict court in the district in which the aggrieved party has
4 his principal place of business in order to obtain judicial re-
5 view of such finding. Such review will be in accordance with
6 the provisions of section 706 of title 5, United States Code."

94TH CONGRESS
1ST SESSION

H. R. 2911

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1975

Mr. MURPHY of Illinois introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Handgun Control Act of
4 1973".

5 SECTION 1. The Congress hereby finds and declares—

6 (a) that annual sales of handguns in the United
7 States have quadrupled since 1963, bringing the total

1 number of handguns in private hands to approximately
2 twenty-four million by the end of 1968; and

3 (b) that handguns play a major role, and a role dis-
4 proportionate to their number in comparison with long
5 guns, in the commission of homicide, aggravated as-
6 sault, and armed robbery, and that the percentage of vio-
7 lent crimes in which handguns are used is increasing; and

8 (c) that more than one-half of all handguns are ac-
9 quired secondhand and that licensing and restrictions
10 on sale of new handguns will not significantly reduce
11 handgun crime and handgun violence; and

12 (d) that with few exceptions handguns are not used
13 for sporting or recreational purposes and that such pur-
14 poses do not require keeping of handguns in private
15 homes; and

16 (e) that handguns in the home are of less value
17 than is commonly thought in defending against intruders
18 and that such defensive purposes can be adequately ac-
19 complished by other means; and

20 (f) that violent crimes perpetrated with handguns
21 constitute a burden upon and interfere with interstate and
22 foreign commerce and threaten the internal security and
23 domestic tranquillity of the Nation; and

24 (g) that a national firearms policy which restricts
25 the availability of handguns for nonlaw enforcement and
26 nonmilitary purposes will significantly reduce violent

3

1 crime, reduce deaths from handguns, and reduce other
2 handgun violence in the United States.

3 SEC. 2. Title 18, United States Code, is amended by
4 inserting immediately after chapter 50 thereof the following
5 new chapter:

6 **"Chapter 50A.—HANDGUNS**

"Sec.

"1091. Unlawful acts.

"1092. Licensing.

"1093. Penalties.

"1094. Exceptions.

"1095. Voluntary delivery to law enforcement agency; reimbursement.

"1096. Rules and regulations.

"1097. Effect on State law.

"1098. Separability clause.

"1099. Appropriations.

"1100. Definitions.

7 **"§ 1091. Unlawful acts**

8 "(a) Except as provided in section 1094 of this chap-
9 ter and in subsection (b) of this section, it shall be unlawful
10 for any person to import, manufacture, sell, buy, transfer,
11 receive, or transport any handgun.

12 "(b) The Secretary may, consistent with public safety
13 and necessity, exempt from the operation of subsection (a)
14 of this section such importation, manufacture, sale, purchase,
15 transfer, receipt, or transportation of handguns by importers,
16 manufacturers, or dealers, licensed under chapter 44 of this
17 title, and by pistol clubs licensed under this chapter, as may
18 in his judgment be required for the operation of such pistol
19 clubs or for purposes described in section 1094 of this chapter.

1 **“§ 1092. Licensing**

2 “(a) A pistol club desiring to be licensed under this
3 chapter shall file an application for such license with the
4 Secretary. The application shall be in such form and contain
5 such information as the Secretary shall by regulation pre-
6 scribe. The fee for such license shall be \$25 per year.

7 “(b) Any importer, manufacturer, or dealer desiring
8 to be licensed under this chapter shall apply as provided in
9 chapter 44 of this title.

10 “(c) Any application submitted under subsection (a)
11 shall be approved if—

12 “(1) all members of the pistol club are twenty-one
13 years of age or older;

14 “(2) no member of the pistol club is prohibited
15 from transporting, shipping, or receiving firearms or
16 ammunition in interstate or foreign commerce under
17 section 922 (g) or (h) of this title or under the law of
18 the State in which the club will be located or of the State
19 in which the member is domiciled;

20 “(3) no member of the pistol club has willfully
21 violated any of the provisions of this chapter or of chap-
22 ter 44 of this title or any regulations issued thereunder;

23 “(4) the pistol club has not willfully failed to dis-
24 close any material information required, or has not made

5

1 any false statement as to any material fact, in connection
2 with his application; and

3 “(5) the pistol club has premises from which it
4 operates and—

5 “(A) maintains possession and control of the
6 handguns used by its members, and

7 “(B) has procedures and facilities for keeping
8 such handguns in a secure place, under the control
9 of the club's chief officer, at all times when they are
10 not being used for target shooting or other sporting
11 or recreational purposes.

12 “(d) (1) The Secretary must approve or deny an appli-
13 cation for a license within the forty-five-day period begin-
14 ning on the date it is received. If the Secretary fails to act
15 within such period, the applicant may file an action under
16 section 1361 of title 28 to compel the Secretary to act. If the
17 Secretary approves an applicant's application, such applicant
18 shall be issued a license upon payment of the prescribed fee.

19 “(2) The Secretary may, after notice and opportunity
20 for hearing, revoke any license issued under this section if
21 the holder of such license has violated any provision of this
22 chapter or of chapter 44 of this title or any rule or regula-
23 tion prescribed by the Secretary under such chapters. The

6

1 Secretary's action under this paragraph may be reviewed
2 only as provided in subsection (e) of this section.

3 “(e) (1) Any person whose application for a license
4 is denied and any holder of a license which is revoked shall
5 receive a written notice from the Secretary stating specifi-
6 cally the grounds upon which the application was denied or
7 upon which the license was revoked. Any notice of revoca-
8 tion of a license shall be given to the holder of such license
9 before the effective date of the revocation.

10 “(2) If the Secretary denies an application for, or
11 revokes, a license, he shall, upon request by the aggrieved
12 party, promptly hold a hearing to review his denial or revo-
13 cation. In the case of a revocation of a license, the Secretary
14 shall upon the request of the holder of the license stay the
15 effective date of the revocation. A hearing held under this
16 paragraph shall be held at a location convenient to the
17 aggrieved party.

18 “(3) If after a hearing held under paragraph (2) the
19 Secretary decides not to reverse his decision to deny an
20 application or revoke a license, the Secretary shall give
21 notice of his decision to the aggrieved party. The aggrieved
22 party may at any time within sixty days after the date notice
23 was given under this paragraph file a petition with the
24 United States district court for the district in which he
25 resides or has his principal place of business for a judicial

1 review of such denial or revocation. In a proceeding con-
2 ducted under this subsection, the court may consider any
3 evidence submitted by the parties to the proceeding. If the
4 court decides that the Secretary was not authorized to deny
5 the application or to revoke the license, the court shall order
6 the Secretary to take such action as may be necessary to
7 comply with the judgment of the court.

8 “(f) Each licensed pistol club shall maintain such rec-
9 ords of receipt, sale, or other disposition, of handguns at such
10 place, for such period, and in such form as the Secretary
11 may by regulations prescribe. Such pistol clubs shall make
12 such records available for inspection at all reasonable times,
13 and shall submit to the Secretary such reports and informa-
14 tion with respect to such records and the contents thereof as
15 he shall by regulations prescribe. The Secretary may enter at
16 reasonable times the premises (including places of storage)
17 of any pistol club for the purpose of inspecting or examining
18 (1) any records of documents required to be kept by such
19 pistol club under the provisions of this chapter or chapter 44
20 of this title and regulations issued under such chapters, and
21 (2) any handguns or ammunition kept or stored by such
22 pistol club at such premises. Upon the request of any State
23 or any political subdivision thereof, the Secretary may make
24 available to such State or any political subdivision thereof
25 any information which he may obtain by reason of the pro-

1 visions of this chapter with respect to the identification of
2 persons who are members of pistol clubs within such State or
3 political subdivision thereof, together with a description of
4 the handguns included in such pistol club's license.

5 “(g) Licenses issued under the provisions of subsection
6 (c) of this section shall be kept posted and kept available
7 for inspection on the premises covered by the license.

8 **“§ 1093. Penalties**

9 “(a) Whoever violates any provision of this chapter or
10 knowingly makes any false statement or representation with
11 respect to the information required by the provisions of this
12 chapter to be kept in the records of a pistol club licensed
13 under this chapter, or in applying for any license under the
14 provisions of this chapter, shall be fined not more than
15 \$5,000, or imprisoned not more than five years, or both, and
16 shall become eligible for parole as the Board of Parole shall
17 determine.

18 “(b) Any handgun involved or used in, or intended to
19 be used in, any violation of the provisions of this chapter or
20 chapter 44 of this title or any rule or regulation promulgated
21 thereunder, or any violation of any other criminal law of the
22 United States, shall be subject to seizure and forfeiture and
23 all provisions of the Internal Revenue Code of 1954 relating
24 to the seizure, forfeiture, and disposition of firearms shall, so
25 far as applicable, extend to seizures and forfeitures under the

1 "§ 1094. Exceptions

2 “(a) The provisions of this chapter shall not apply with
3 respect to the importation, manufacture, sale, purchase, trans-
4 fer, receipt, or transportation of any handgun which the Sec-
5 retary determines is being imported or manufactured for,
6 sold, or transferred to, purchased, received, or transported
7 by, or issued for the use of, the United States or any depart-
8 ment or agency thereof or any State or any department,
9 agency, or political subdivision thereof.

“(b) The provisions of this chapter shall not apply with respect to the importation, manufacture, sale, purchase, transfer, receipt, or transportation of a handgun which the Secretary determines is unserviceable, not restorable to firing condition, and intended for use as a curio, museum piece, or collectors’ item.

16 "§ 1095. Voluntary delivery to law enforcement agency;
17 reimbursement

18 “(a) A person may at any time deliver to any Federal,
19 State, or local law enforcement agency designated by the
20 Secretary a handgun owned or possessed by such person.
21 The Secretary shall arrange with each agency designated to
22 receive handguns for the transfer, destruction, or other dis-
23 position of all handguns delivered under this section.

24 “(b) Upon proof of lawful acquisition and ownership
25 by a person delivering a handgun to a law enforcement

1 agency under this section, the owner of the handgun shall
2 be entitled to receive from the United States a payment
3 equal to the fair market value of the handgun or \$25, which-
4 ever is more. The Secretary shall provide for the payment,
5 directly or indirectly, through Federal, State, and local law
6 enforcement agencies, of the amounts to which owners of
7 handguns delivered under this section are entitled.

8 “(c) The amounts authorized in subsection (b) of this
9 section shall be paid out of the fees collected under section
10 1092 (a) of this chapter to the extent that such fees are
11 sufficient for this purpose. The remainder of amounts author-
12 ized in subsection (b) of this section shall be paid out of
13 general revenues.

14 **“§ 1096. Rules and regulations**

15 “(a) The Secretary may prescribe such rules and regula-
16 tions as he deems necessary to carry out the provisions of
17 this chapter, including—

18 “(1) regulations providing that a person licensed
19 under this chapter, when dealing with another person
20 so licensed or with a person licensed under chapter 44
21 of this title, shall provide such other licensed person a
22 certified copy of his license; and

23 “(2) regulations providing for the issuance, at a
24 reasonable cost, to a person licensed under this chapter,
25 of certified copies of his license for use as provided under

1 regulations issued under paragraph (1) of this sub-
2 section.

3 “(b) The Secretary shall give reasonable public notice,
4 and afford to interested parties opportunity for hearing, prior
5 to prescribing rules and regulations authorized by this
6 section.

7 **“§ 1097. Effect on State law**

8 “No provision of this chapter shall be construed as
9 indicating an intent on the part of the Congress to occupy
10 the field in which such provision operates to the exclusion
11 of the law of any State on the same subject, unless there is
12 a direct and positive conflict between such provision and the
13 law of the State so that the two cannot be reconciled or con-
14 sistently stand together.

15 **“§ 1098. Separability**

16 “If any provision of this chapter or the application there-
17 of to any person or circumstance is held invalid, the re-
18 mainder of the chapter and the application of such provision
19 to other persons not similarly situated or to other circum-
20 stances shall not be affected thereby.

21 **“§ 1099. Appropriations**

22 “There are authorized to be appropriated such sums as
23 are necessary to carry out the purposes of this chapter.

24 **“§ 1100. Definitions**

25 “As used in this chapter—

12

1 “(1) The term ‘person’ and the term ‘whoever’ include
2 any individual, corporation, company, association, firm, part-
3 nership, club, society, or joint-stock company. .

4 “(2) The term ‘importer’ means any person engaged in
5 the business of importing or bringing handguns into the
6 United States for purposes of sale or distribution; and the
7 term ‘licensed importer’ means any such person licensed un-
8 der the provisions of chapter 44 of this title.

9 “(3) The term ‘manufacturer’ means any person en-
10 gaged in the manufacture or assembly of handguns for the
11 purposes of sale or distribution; and the term ‘licensed manu-
12 facturer’ means any such person licensed under the provisions
13 of chapter 44 of this title.

14 “(4) The term ‘dealer’ means (A) any person engaged
15 in the business of selling handguns at wholesale or retail,
16 (B) any person engaged in the business of repairing hand-
17 guns or of making or fitting special barrels, or trigger mecha-
18 nisms to handguns, or (C) any person who is a pawnbroker.
19 The term ‘licensed dealer’ means any dealer who is licensed
20 under the provisions of chapter 44 of this title.

21 “(5) The term ‘collector’ means any person who ac-
22 quires, holds, or disposes of handguns as curios, or relics, as
23 the Secretary shall by regulation define, and the term ‘li-
24 censed collector’ means any such person licensed under the
25 provisions of chapter 44 of this title.

1 “(6) The term ‘Secretary’ or ‘Secretary of the Treasury’
2 means the Secretary of the Treasury or his delegate.

3 “(7) The term ‘handgun’ means any weapon—

4 “(A) designed or redesigned, or made, or remade,
5 and intended to be fired while held in one hand;

6 “(B) having a barrel less than ten inches in length;
7 and

8 “(C) designed or redesigned, or made or remade,
9 to use the energy of an explosive to expel a projectile or
10 projectiles through a smooth or rifled bore.

11 “(8) The term ‘pistol club’ means a club organized
12 for target shooting with handguns or to use handguns for
13 sporting or other recreational purposes and which—

14 “(A) maintains possession and control of the hand-
15 guns used by its members, and

16 “(B) has procedures and facilities for keeping such
17 handguns in a secure place, under the control of the
18 club’s chief officer, at all times when they are not being
19 used for target shooting, sporting, or other recreational
20 purposes.

21 The term ‘licensed pistol club’ means any pistol club which
22 is licensed under this chapter.”.

23 SEC. 3. The enforcement and administration of the
24 amendment made by this Act shall be vested in the Secre-
25 tary of the Treasury.

1 SEC. 4. Nothing in this Act or the amendment made
2 thereby shall be construed as modifying or affecting any
3 provision of—

4 (a) the National Firearms Act (chapter 53 of the
5 Internal Revenue Code of 1954) ;

6 (b) section 414 of the Mutual Security Act of
7 1954 (22 U.S.C. 1934) , as amended, relating to muni-
8 tions control; or

9 (c) section 1715 of title 18, United States Code,
10 relating to nonmailable firearms.

11 SEC. 5. The provisions of this Act shall take effect one
12 year from the date of enactment.

94TH CONGRESS
1ST SESSION

H. R. 3154

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 1975

Mr. HARRINGTON introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Gun Control Act of 1968.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Handgun Control Act
4 of 1974".

5 SECTION 1. The Congress hereby finds and declares—

6 (a) that annual sales of handguns in the United
7 States have risen sharply in the last decade, bringing
8 the total number of handguns in private hands to approx-
9 imately twenty-five to forty million by the end of 1973;
10 and

11 (b) that handguns play a major role, and a role dis-
12 proportionate to their number in comparison with long

I—O

1 guns, in the commission of homicide, aggravated assault,
2 and armed robbery, and that the percentage of violent
3 crimes in which handguns are used is increasing; and

4 (c) that most homicides are committed in alterca-
5 tions between relatives, neighbors, or other acquaint-
6 ances, rather than in a confrontation between strangers;
7 and

8 (d) that handguns in the home are of less value
9 than is commonly thought in defending against in-
10 truders, and are more likely to increase the danger of
11 a firearm fatality to the inhabitants than to enhance
12 their personal safety; and

13 (e) that with few exceptions, handguns are not
14 used for sporting or recreational purposes and that such
15 purposes do not require keeping handguns in private
16 homes; and

17 (f) that more than one-half of all handguns are
18 acquired secondhand and that licensing and restrictions
19 on sale of new handguns will not significantly reduce
20 handgun crime and handgun violence; and

21 (g) that violent crimes perpetrated with handguns
22 constitute a burden upon and interfere with interstate
23 and foreign commerce and threaten the internal secu-
24 rity and domestic tranquillity of the Nation; and

25 (h) that fear of firearms crimes discourages citizens

1 from traveling between the States to conduct business or
2 to visit the Nation's Capital; and

3 (i) that crimes committed with guns have disrupted
4 our national political processes, and threaten the repub-
5 lican form of government within the States as guaran-
6 teed by article IV of the Constitution; and

7 (j) that a national firearms policy which restricts
8 the availability of handguns for non-law-enforcement and
9 non-military purposes will significantly reduce violent
10 crime, reduce deaths from handguns, and reduce other
11 handgun violence in the United States.

12 SEC. 2. Title 18, United States Code, is amended by
13 inserting immediately after chapter 50 thereof the following
14 new chapter:

15 **"Chapter 50A.—HANDGUNS**

"Sec.

"1091. Unlawful acts.

"1092. Licensing.

"1093. Penalties.

"1094. Exceptions.

"1095. Voluntary delivery to law enforcement agency; reimbursement.

"1096. Rules and regulations.

"1097. Effect on State law.

"1098. Separability clause.

"1099. Appropriations.

"1100. Definitions.

16 **"§ 1091. Unlawful acts**

17 "(a) Except as provided in section 1094 of this
18 chapter and in subsection (c) of this section, it shall be un-
19 lawful for any person to import, manufacture, sell, buy,

1 transfer, receive, or transport any handgun and handgun
2 ammunition.

3 “(b) Except as provided in section 1094 of this chap-
4 ter and in subsection (c) of this section, it shall be unlawful
5 after one hundred and eighty days from the effective date of
6 this chapter, for any person to own or possess any handgun
7 or handgun ammunition.

8 “(c) The Secretary may, consistent with public safety
9 and necessity, exempt from the operation of subsection (a)
10 and subsection (b) of this section such importation, manu-
11 facture, sale, purchase, transfer, receipt, possession, owner-
12 ship, or transportation of handguns and handgun ammunition
13 by importers, manufacturers, or dealers, licensed under chap-
14 ter 44 of this title, and by pistol clubs licensed under this
15 chapter, as may in his judgment be required for the operation
16 of such pistol clubs or for purposes in section 1094 of this
17 chapter.

18 “(d) It shall be unlawful for any licensed importer,
19 manufacturer, or dealer to sell or otherwise transfer any hand-
20 gun or handgun ammunition to any person, except another
21 licensed importer, manufacturer, or dealer, without presenta-
22 tion by the purchaser or recipient of written verification that
23 the receipt or purchase is being made by or on behalf of a
24 person or government agency eligible to obtain and possess

1 handguns under section 1094 of this chapter or a pistol club
2 licensed under this chapter.

3 “(c) Every manufacturer, importer, and dealer who
4 sells or otherwise transfers handguns or handgun ammuni-
5 tion shall maintain records of sale or transfer of handguns
6 and handgun ammunition in such form as the Secretary
7 may by regulations provide and shall permit the Secretary
8 to enter the premises at reasonable times for the purpose
9 of inspecting such records.

10 **“§ 1092. Licensing**

11 “(a) A pistol club desiring to be licensed under this
12 chapter shall file an application for such license with the
13 Secretary. The application shall be in such form and contain
14 such information as the Secretary shall by regulation pre-
15 scribe. The fee for such license shall be \$25 per year.

16 “(b) Any importer manufacturer, or dealer desiring to
17 be licensed under this chapter shall apply as provided in
18 chapter 44 of this title.

19 “(c) Any application submitted under subsection (a)
20 shall be approved if—

21 “(1) no member of the pistol club is a person
22 whose membership and participation in the club is in
23 violation of any applicable State laws;

24 “(2) no member of the pistol club is prohibited
25 from transporting, shipping, or receiving firearms or

1 ammunition in interstate or foreign commerce under
2 section 922 (g) or (h) of this title;

3 “(3) no member of the pistol club has willfully
4 violated any of the provisions of this chapter or of chap-
5 ter 44 of this title or any regulations issued thereunder;

6 “(4) the pistol club has not willfully failed to dis-
7 close any material information required, or has not
8 made any false statement as to any material fact in
9 connection with its application;

10 “(5) the club has been founded and operated for
11 bona fide target or sport shooting and other legitimate
12 recreational purposes; and

13 “(6) the pistol club has premises from which it
14 operates and—

15 “(A) maintains possession and control of the
16 handguns used by its members, and

17 “(B) (i) has procedures and facilities for keep-
18 ing such handguns in a secure place, under the con-
19 trol of the club’s chief officer, at all times when they
20 are not being used for target shooting or other sport-
21 ing or recreational purposes, or

22 “(ii) has effected arrangements for the storage
23 of the members’ handguns in a facility of the local
24 police department or other nearby law enforcement
25 agency.

1 “(d) (1) The Secretary must approve or deny an ap-
2 plication for a license within the sixty-day period beginning
3 on the date it is received. If the Secretary fails to act within
4 such period, the applicant may file an action under section
5 1361 of title 28 to compel the Secretary to act. If the Sec-
6 retary approves an applicant's application, such applicant
7 shall be issued a license upon payment of the prescribed fee.

8 “(2) The Secretary may, after notice and opportunity
9 for hearing, revoke any license issued under this section if
10 the holder of such license has violated any provision of this
11 chapter or of chapter 44 of this title or any rule or regula-
12 tions prescribed by the Secretary under such chapters. The
13 Secretary's action under this paragraph may be reviewed
14 only as provided in subsection (e) of this section.

15 “(e) (1) Any person whose application for a license
16 is denied and any holder of a license which is revoked shall
17 receive a written notice from the Secretary stating specifi-
18 cally the grounds upon which the application was denied or
19 upon which the license was revoked. Any notice of revoca-
20 tion of a license shall be given to the holder of such license
21 before the effective date of the revocation.

22 “(2) If the Secretary denies an application for, or
23 revokes, a license, he shall, upon request by the aggrieved
24 party, promptly hold a hearing to review his denial or revo-
25 cation. In the case of a revocation of a license, the Secretary

1 shall upon the request of the holder of the license stay the
2 effective date of the revocation. A hearing held under this
3 paragraph shall be held at a location convenient to the
4 aggrieved party.

5 “(3) If after a hearing held under paragraph (2) the
6 Secretary decides not to reverse his decision to deny an
7 application or revoke a license, the Secretary shall give
8 notice of his decision to the aggrieved party. The aggrieved
9 party may at any time within sixty days after the date notice
10 was given under this paragraph file a petition with the
11 United States district court for the district in which he
12 resides or has his principal place of business for a judicial
13 review of such denial or revocation. In a proceeding con-
14 ducted under this subsection, the court may consider any
15 evidence submitted to the parties to the proceeding. If the
16 court decides that the Secretary was not authorized to deny
17 the application or to revoke the license, the court shall order
18 the Secretary to take such action as may be necessary to
19 comply with the judgment of the court.

20 “(f) Each licensed pistol club shall maintain such rec-
21 ords of receipt, sale, or other disposition, of handguns at such
22 place, for such period, and in such form as the Secretary
23 may by regulations prescribe. Such pistol clubs shall make
24 such records available for inspection at all reasonable times,
25 and shall submit to the Secretary such reports and informa-

1 tion with respect to such records and the contents thereof
2 as he shall by regulations prescribe. The Secretary may
3 enter at reasonable times the premises (including places of
4 storage) of any pistol club for the purpose of inspecting or
5 examining (1) any records of documents required to be kept
6 by such pistol club under the provisions of this chapter or
7 chapter 44 of this title and regulations issued under such
8 chapters, and (2) any handguns or ammunition kept or
9 stored by such pistol club at such premises.

10 “(g) Licenses issued under the provisions of subsection
11 (c) of this section shall be kept posted and kept available
12 for inspection on the premises covered by the license.

13 “(h) The loss or theft of any firearms shall be re-
14 ported by the person from whose possession it was lost or
15 stolen, within thirty days after such loss or theft is dis-
16 covered, to the Secretary. Such report shall include such
17 information as the Secretary by regulation shall prescribe,
18 including, without limitation, the date and place of theft
19 or loss.

20 **“§ 1093. Penalties**

21 “(a) Whoever violates any provision of section 1091
22 of this chapter shall be fined not more than \$5,000, or im-
23 prisoned not more than five years, or both, and shall become
24 eligible for parole as the Board of Parole shall determine.

25 “(b) Whoever knowingly makes any false statement

1 or representation with respect to the information required
2 by the provisions of this chapter to be kept in the records
3 of an importer, manufacturer, dealer, or pistol club, licensed
4 under this chapter, or in applying for a pistol club license
5 under the provisions of this chapter, shall be fined not more
6 than \$5,000, or imprisoned not more than five years, or
7 both, and shall become eligible for parole as the Board of
8 Parole shall determine.

9 “(c) Any handgun or handgun ammunition involved
10 or used in, or intended to be used in, any violation of the
11 provisions of this chapter or chapter 44 of this title or any
12 rule or regulation promulgated thereunder, or any violation
13 of any other criminal law of the United States, shall be sub-
14 ject to seizure and forfeiture and all provisions of the Inter-
15 nal Revenue Code of 1954 relating to the seizure, forfeiture,
16 and disposition of firearms shall, so far as applicable, extend
17 to seizures and forfeitures under the provisions of this chapter.

18 “(d) Except as provided in subsection (b), no infor-
19 mation or evidence obtained from an application or certificate
20 of registration required to be submitted or retained by a
21 natural person in order to comply with any provision of
22 this chapter or regulations issued by the Secretary shall be
23 used, directly or indirectly, as evidence against that person
24 in a criminal proceeding with respect to a violation of law
25 occurring prior to or concurrently with the filing of the

1 application for registration containing the information or
2 evidence.

3 **"§ 1094. Exceptions**

4 " (a) The provisions of this chapter shall not apply with
5 respect to the importation, manufacture, sale, purchase,
6 transfer, receipt, or transportation of any handgun or hand-
7 gun ammunition which the Secretary determines is being
8 imported or manufactured for, sold, or transferred to, pur-
9 chased, received, owned, possessed, or transported by, or
10 issued for the use of—

11 " (1) a professional security guard service which is
12 licensed by the State in which the handgun is to be
13 used, and which is authorized to provide armed security
14 guards for hire; or

15 " (2) the United States or any department or
16 agency thereof or any State or any department, agency,
17 or political subdivision thereof.

18 " (b) Every security guard service purchasing, receiving,
19 owning, possessing, or transporting handguns under subsec-
20 tion (a) shall maintain records of receipt, sale, ownership,
21 and possession of handguns in such form as the Secretary
22 may provide and permit the Secretary to enter the prem-
23 ises at reasonable times for the purpose of inspecting such
24 records.

25 " (c) The provisions of this chapter shall not apply

1 with respect to the importation, sale, purchase, transfer,
2 receipt, or transportation of a handgun manufactured be-
3 fore 1890, or any other handgun which the Secretary de-
4 termines is unserviceable, not restorable to firing condition,
5 and intended for use as a curio, museum piece, or collectors'
6 item.

7 **“§ 1095. Voluntary delivery to law enforcement agency;**
8 **reimbursement**

9 “(a) Any person may at any time deliver to any Fed-
10 eral, State, or local law enforcement agency designated by
11 the Secretary a handgun owned or possessed by such per-
12 son. The Secretary shall arrange with each agency desig-
13 nated to receive handguns for the transfer, destruction, or
14 other disposition of all handguns delivered under this
15 section.

16 “(b) Upon proof of lawful acquisition and ownership
17 by a person delivering a handgun to a law enforcement
18 agency under this section, within one hundred and eighty
19 days of the effective date of this chapter, the owner of the
20 handgun shall be entitled to receive from the United States a
21 payment equal to the fair market value of the handgun or
22 \$25, whichever is more. The Secretary shall provide for the
23 payment, directly or indirectly, through Federal, State, and
24 local law enforcement agencies, of the amounts to which
25 owners of handguns delivered under this section are entitled.

1 “(c) The amounts authorized in subsection (b) of this
2 section shall be paid out of the fees collected under section
3 1092 (a) of this chapter to the extent that such fees are
4 sufficient for this purpose. The remainder of amounts au-
5 thorized in subsection (b) of this section shall be paid out
6 of general revenues.

7 **“§ 1096. Rules and regulations**

8 “(a) The Secretary may prescribe such rules and reg-
9 ulations as he deems necessary to carry out the provisions
10 of this chapter.

11 **“§ 1097. Effect on State law**

12 “No provision of this chapter shall be construed as
13 indicating an intent on the part of the Congress to occupy
14 the field in which such provision operates to the exclusion
15 of the law of any State on the same subject, unless there is
16 a direct and positive conflict between such provision and
17 the law of the State so that the two cannot be reconciled
18 or consistently stand together.

19 **“§ 1098. Separability**

20 “If any provision of this chapter or the application there-
21 of to any person or circumstance is held invalid, the re-
22 mainder of the chapter and the application of such provision
23 to other persons not similarly situated or to other circum-
24 stances shall not be affected thereby.

1 **“§ 1099. Assistance to the Secretary**

2 “When requested by the Secretary, Federal departments
3 and agencies shall assist the Secretary in the administration
4 of this title.

5 **“§ 1100. Appropriations**

6 “There are authorized to be appropriated such sums as
7 are necessary to carry out the purposes of this chapter.

8 **“§ 1101. Definitions**

9 “As used in this chapter—

10 “(1) The term ‘person’ and the term ‘whoever’ include
11 any individual, corporation, company, association, firm part-
12 nership, club, society, or joint-stock company.

13 “(2) The term ‘importer’ means any person engaged in
14 the business of importing or bringing handguns into the
15 United States for purposes of sale or distribution; and the
16 term ‘licensed importer’ means any such person licensed
17 under the provisions of chapter 44 of this title.

18 “(3) The term ‘manufacturer’ means any person en-
19 gaged in the manufacture or assembly of handguns for the
20 purposes of sale or distribution; and the term ‘licensed manu-
21 facturer’ means any such person licensed under the provisions
22 of chapter 44 of this title.

23 “(4) The term ‘dealer’ means (A) any person engaged
24 in the business of selling handguns at wholesale or retail,
25 (B) any person engaged in the business of repairing hand-

1 guns or of making or fitting special barrels, or trigger mech-
2 anisms to handguns, or (C) any person who is a pawn-
3 broker. The term 'licensed dealer' means any dealer who is
4 licensed under the provisions of chapter 44 of this title.

5 “(5) The term 'fair market value' means the prevailing
6 price on the open market for such weapons immediately prior
7 to enactment or at the time of voluntary transfer under sec-
8 tion 1095 of this chapter, whichever is higher, the method
9 of establishing such prices to be prescribed by the Secretary
10 in accordance with his authority under section 1096.

11 “(6) The term 'Secretary' or 'Secretary of the Treasury'
12 means the Secretary of the Treasury or his delegate.

13 “(7) The term 'handgun' means any weapon—

14 “(A) designed or redesigned, or made or remade,
15 and intended to be fired while held in one hand;

16 “(B) having a barrel less than ten inches in length;
17 and

18 “(C) designed or redesigned, or made or remade,
19 to use the energy of an explosive to expel a projectile
20 or projectiles through a smooth or rifled bore.

21 “(8) The term 'handgun ammunition' means ammu-
22 nition or cartridge cases, or bullets designed for use primarily
23 in handguns.

24 “(9) The term 'pistol club' means a club organized for

1 target shooting with handguns or to use handguns for sport-
2 ing or other recreational purposes.

3 “(10) The term ‘licensed pistol club’ means a pistol
4 club which is licensed under this chapter.”

5 SEC. 3. The enforcement and administration of the
6 amendment made by this Act shall be vested in the Secre-
7 tary of the Treasury.

8 SEC. 4. Nothing in this Act or the amendment made
9 thereby shall be construed as modifying or affecting any
10 provision of—

11 (a) the National Firearms Act (chapter 53 of the
12 Internal Revenue Code of 1954) ;

13 (b) section 414 of the Mutual Security Act of 1954
14 (22 U.S.C. 1934), as amended, relating to munitions
15 control; or

16 (c) section 1715 of title 18, United States Code,
17 relating to nonmailable firearms.

18 SEC. 5. The provisions of this Act shall take effect one
19 hundred and eighty days following the date of enactment.

94TH CONGRESS
1ST SESSION

H. R. 3391

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 20, 1975

Mr. ASHBROOK introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide additional penalties for the use of firearms or destructive devices in the commission of certain crimes of violence.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) part I of title 18, United States Code, is amended
4 by adding immediately after chapter 115 the following new
5 chapter:
6 **"Chapter 116.—USE OF FIREARMS AND DESTRUC-**
7 **TIVE DEVICES IN THE COMMISSION OF CER-**
8 **TAIN CRIMES OF VIOLENCE**

"Sec.

"2401. Use of firearms in the commission of certain crimes of violence.

"2402. Definitions.

I

1 **“§ 2401. Use of firearms and destructive devices in the**
2 **commission of certain crimes of violence**

3 “Whoever, while engaged in the commission of any of-
4 fense which is a crime of violence punishable under this title,
5 is armed with any firearm or destructive device, may in
6 addition to the punishment provided for the crime be pun-
7 ished by imprisonment for an indeterminate number of years
8 up to life, as determined by the court. Upon a conviction
9 under this section, notwithstanding any other provision of
10 law, the court shall not suspend the first year of the sentence
11 of such person or give him a probationary sentence but shall
12 impose, as a minimum, a mandatory one-year sentence.

13 **“§ 2402. Definitions**

14 “As used in this chapter—

15 “‘Crime of violence’ means any of the following crimes
16 or an attempt to commit any of the following crimes: murder;
17 voluntary manslaughter; Presidential assassination, kidnap-
18 ing, and assault; killing certain officers and employees of the
19 United States; rape; kidnapping; assault with intent to kill,
20 rob, rape, or poison; assault with a dangerous weapon;
21 robbery; burglary; theft or looting; racketeering; extortion;
22 and arson.

23 “‘Firearm’ means any weapon (including a starter
24 gun) which will or is designed to or may readily be con-
25 verted to expel a projectile by the action of an explosive;

1 the frame or receiver of any such weapon; or any firearm
2 muffler or firearm silencer; or any destructive device.

3 " 'Destructive device' means any explosive, incendiary,
4 or poison gas bomb, grenade, mine, rocket, missile, 'molotov
5 cocktail' or similar device; and includes any type of weapon
6 which will or is designed to or may readily be converted to
7 expel a projectile by the action of any explosive and having
8 any barrel with a bore of one-half inch or more in diameter."

9 (b) The analysis of part I of title 18, United States
10 Code, is amended by inserting immediately before the last
11 item the following:

"116. Use of firearms and destructive devices in the commission of
certain crimes of violence..... 2401."

94TH CONGRESS
1ST SESSION

H. R. 3504

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 20, 1975

Mr. STARK introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18 of the United States Code to prohibit the manufacture, sale, purchase, transfer, receipt, or transportation of handguns and handgun ammunition, in or affecting interstate and foreign commerce, except for, to, or by, certain pistol clubs, law enforcement officers, and members of the military.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Handgun and Handgun
4 Ammunition Control Act of 1975".

5 SEC. 2. The Congress finds and declares—

6 (1) that annual sales of handguns in the United
7 States have quadrupled since 1963, bringing the total

2

1 number of handguns in private hands to approximately
2 twenty-four million at the end of 1968;

3 (2) that handguns play a major role, and a role
4 disproportionate to their number in comparison with
5 long guns, in the commission of homicide, aggravated
6 assault, and armed robbery;

7 (3) that the percentage of violent crimes in which
8 handguns are used is increasing;

9 (4) that more than one-half of all handguns are
10 acquired secondhand, and the licensing and restric-
11 tion of sale of new handguns will not significantly re-
12 duce handgun crime and handgun violence;

13 (5) that with few exceptions handguns are not
14 used for sporting or recreational purposes and that such
15 purposes do not require keeping of handguns in private
16 homes;

17 (6) that handguns in the home are of less value
18 than is commonly thought in defending against in-
19 truders and that such defensive purposes can be ade-
20 quately accomplished by other means;

21 (7) that violent crimes perpetrated with handguns
22 constitute a burden upon and interfere with interstate
23 and foreign commerce and threaten the internal security
24 and domestic tranquility of the Nation;

25 (8) that a national firearms policy which restricts

1 the availability of handguns for non-law-enforcement and
2 nonmilitary purposes will significantly reduce violent
3 crime, reduce deaths from handguns, and reduce other
4 handgun violence in the United States; and

5 (9) that law enforcement officers and members of
6 the military should continue to have the same relief
7 from disabilities with respect to handguns as they have
8 with respect to other firearms under section 925 of title
9 18 of the United States Code.

10 SEC. 3. Section 922 of title 18 of the United States
11 Code is amended by adding at the end thereof the following
12 new subsection:

13 “(n) It shall be unlawful to manufacture, sell, purchase,
14 transfer, receive, or transport any handgun or handgun am-
15 munition in interstate or foreign commerce, except for,
16 to, or by a licensed pistol club.”.

17 SEC. 4. Section 921 of title 18 of the United States
18 Code is amended by adding at the end thereof the follow-
19 ing new paragraphs:

20 “(21) The term ‘handgun’ means any firearm—

21 “(A) designed or redesigned, or made or remade,
22 and intended to be fired while held in one hand; and

23 “(B) having a barrel less than ten inches in length.

24 “(22) The term ‘licensed pistol club’ means a club
25 organized for target shooting with handguns for sporting or

1 other recreational purposes, and which is licensed annually
2 under section 923 (d) (2) of this title.”.

3 SEC. 5 (a) Section 923 (d) of title 18 of the United
4 States Code is amended by striking out paragraph (2) and
5 inserting in lieu thereof the following:

6 “(2) The Secretary shall approve the application of a
7 pistol club to be a licensed pistol club under this title if—

8 “(A) the application is in such form, contains
9 such information, and is accompanied by such fee not
10 exceeding \$25, as the Secretary shall prescribe;

11 “(B) such club (i) maintains possession and con-
12 trol of the handguns and handgun ammunition used by
13 its members, (ii) has procedures and facilities for keep-
14 ing such handguns and handgun ammunition in a secure
15 place, under the control of the club’s chief officer, at
16 all times when they are not being used for target shoot-
17 ing, sporting, or other recreational purposes, and (iii)
18 has not willfully failed to disclose any material informa-
19 tion required, or made any false statement as to a mate-
20 rial fact, in connection with its application for such
21 approval; and

22 “(C) Each member of such club (i) is twenty-one
23 years of age, or older, (ii) is not prohibited from trans-
24 porting, shipping, or receiving firearms or ammuni-
25 tion in interstate or foreign commerce under section

1 922 (g) or (h) of this title or under the law of the
2 State in which the club is located or of the State in
3 which such member resides, and (iii) has not willfully
4 violated any provision of this chapter.”.

5 (b) Section 923 (g) of title 18 of the United States
6 Code is amended by inserting immediately after the third
7 sentence the following: “Each licensed pistol club shall
8 maintain such records of the receipt, possession, and sale
9 or other disposition of handguns and handgun ammunition
10 at such place, for such period, and in such form as the Secre-
11 tary shall require. Such pistol club shall make such records
12 available for inspection at all reasonable times, and shall
13 submit to the Secretary such reports and information with
14 respect to such records and the contents thereof as he shall
15 by regulations prescribe. The Secretary may enter during
16 reasonable hours the premises (including places of storage) of
17 any licensed pistol club to inspect or examine (1) any records
18 required to be kept by such pistol club under this chapter,
19 and (2) any handguns or handgun ammunition kept or
20 stored by such pistol club.”

21 SEC. 6. (a) A person may at any time deliver to any
22 officer or employee of the Federal Bureau of Investigation
23 designated by such Bureau for the purposes of this section
24 a handgun owned or possessed by such person. The Secre-
25 tary shall arrange with each agency designated to receive

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1 handguns for the transfer, destruction, or other disposition of
2 all handguns delivered under this section.

3 (b) Upon proof of lawful acquisition and ownership by
4 a person delivering a handgun to a law enforcement agency
5 under this section, the owner of the handgun shall be en-
6 titled to receive from the United States a payment equal to
7 the fair market value of the handgun or \$25, whichever is
8 more. The Federal Bureau of Investigation shall provide for
9 the payment, of the amounts to which owners of handguns
10 delivered under this section are entitled.

11 SEC. 7. The amendments made by this Act shall take
12 effect beginning one year after the date of the enactment
13 of this Act.

94TH CONGRESS
1ST SESSION

H. R. 3772

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 1975

Mr. DINGELL introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To strengthen the penalty provisions of the Gun Control Act of 1968.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsection (c) of section 924 of title 18, United States
4 Code, is amended to read as follows:

5 “(a) Whoever—

6 “(1) uses a firearm to commit any felony which
7 may be prosecuted in a court of the United States, or

8 “(2) carries a firearm unlawfully during the com-
9 mission of any felony which may be prosecuted in a
10 court of the United States,

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1 shall, in addition to the punishment provided for the com-
2 mission of such felony, be sentenced to a term of imprison-
3 ment for not less than one year nor more than ten years. In
4 the case of his second or subsequent conviction under this
5 subsection, such person shall be sentenced to a term of
6 imprisonment for not less than twenty-five years and, not-
7 withstanding any other provision of law, the court shall not
8 suspend the sentence of such person or give him a probation-
9 ary sentence nor shall the term of imprisonment imposed
10 under this subsection run concurrently with any term of
11 imprisonment imposed for the commission of such felony.”.

94TH CONGRESS
1ST SESSION

H. R. 4758

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 1975

Mr. FISH (for himself, Mr. BAFALIS, Mr. BAUMAN, Mr. BEVILL, Mr. BUCHANAN, Mr. BUTLER, Mr. D'AMOURS, Mr. DERRICK, Mr. DERWINSKI, Mr. DICKINSON, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. ESHLEMAN, Mr. FLORIO, Mr. FORSYTHE, Mr. FUQUA, Mr. GUDE, Mr. GUYER, Mr. HECHLER of West Virginia, Mrs. HECKLER of Massachusetts, Mr. HEFNER, Mr. HORTON, Mr. HUBBARD, and Mr. HYDE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for additional sentences for commission of a felony with use of a firearm.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsection (c) of section 924 of title 18 of the United
4 States Code is amended to read as follows:

5 “(c) (1) Whoever—

6 “(A) uses a firearm to commit any felony for which
7 he may be prosecuted in a court of the United States, or

8 “(B) carries a firearm unlawfully during the com-
9 mission of any felony which threatens life or property for
10 which he may be prosecuted in a court of the United
11 States,

1 may, in addition to the punishment provided for the com-
2 mission of such felony, be sentenced to a term of imprison-
3 ment for not less than five years or more than fifteen years.
4 In any case in which such additional sentence is not imposed,
5 the court shall state in writing its reasons for so deciding.
6 The imposition or execution of such additional sentence if
7 imposed shall not be suspended nor probation granted.

8 “(2) Whoever, after having been convicted of any such
9 felony while so using or unlawfully carrying a firearm as
10 provided in paragraph (1) of this subsection and is again
11 convicted of a second or subsequent offense involving the
12 commission of a felony for which he may be prosecuted
13 in a court of the United States while so using or unlawfully
14 carrying a firearm as provided in paragraph (1) shall, in
15 addition to the punishment provided for the commission of
16 such felony, be sentenced to a term of imprisonment for not
17 less than ten or more than thirty years. The imposition or
18 execution of such additional sentence shall not be suspended
19 and probation shall not be granted.

20 “(3) In no case shall any additional term of imprison-
21 ment imposed pursuant to this subsection run concurrently
22 with any term of imprisonment imposed for the commission
23 of any such felony.

24 “(4) A conviction shown on direct or collateral review
25 to be invalid, or for which the defendant has been pardoned

1 on the ground of innocence shall be disregarded for purposes
2 of paragraph (2) of this subsection.”.

3 DANGEROUS SPECIAL OFFENDERS

4 SEC. 2. (a) Subsection (c) of section 3575 of title 18,
5 United States Code, is amended (1) by striking out the
6 period at the end of paragraph (3) thereof and inserting in
7 lieu thereof a semicolon and the word “or”, and (2) by add-
8 ing immediately after paragraph (3) thereof the following
9 new paragraph:

10 “(4) the defendant used a firearm (as defined in
11 section 921 (a) (3) of this title) to commit such felony,
12 or unlawfully carried a firearm (as defined in section 921
13 (a) (3) of this title) during the commission of such
14 felony.”.

15 (b) Section 3575 of title 18, United States Code, is
16 amended by adding at the end thereof the following new
17 subsection:

18 “(h) Nothing in this section shall be construed as
19 amending, altering, modifying, or otherwise affecting the
20 provisions of subsection (c) of section 924 of this title, or
21 as affecting the applicability of such provisions to any de-
22 fendant sentenced pursuant to this section.”.

94TH CONGRESS
1ST SESSION

H. R. 5379

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1975

Mr. DANIELSON introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 44 of title 18 of the United States Code to penalize the use of a cutting or stabbing weapon in the commission of a felony, and to increase the penalties for the use of firearms in the commission of a felony.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the heading of chapter 44 of title 18 of the United
4 States Code (relating to firearms) is amended by adding
5 the words "**AND WEAPONS**" immediately after the word
6 "**FIREARMS**".

7 SEC. 2. Section 924 (c) of title 18 of the United States
8 Code is amended to read as follows:

9 "(c) Whoever—

1 “(1) uses a firearm, or a cutting or stabbing
2 weapon, to commit any felony for which he may be
3 prosecuted in a court of the United States, or

4 “(2) carries a firearm, or a cutting or stabbing
5 weapon, during the commission of any felony for which
6 he may be prosecuted in a court of the United States,
7 shall, in addition to the punishment provided for the com-
8 mission of such felony, be sentenced to a term of imprison-
9 ment for not less than two nor more than ten years. In the
10 case of his second or subsequent conviction under this sub-
11 section, such person shall be sentenced to a term of impris-
12 onment for not less than five nor more than twenty-five years
13 and, notwithstanding any other provision of law, the court
14 shall not suspend the sentence in the case of a second
15 or subsequent conviction of such person or give him a pro-
16 bationary sentence, nor shall the term of imprisonment im-
17 posed under this subsection run concurrently with any term
18 of imprisonment imposed for the commission of such felony.”.

94TH CONGRESS
1ST SESSION

H. R. 6778

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1975

Mr. PEPPER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 44 of title 18 of the United States Code to limit the availability of guns not suitable for lawful sporting purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Congress finds and declares that—

4 (1) the Gun Control Act of 1968 prohibited the
5 importation of small, cheap handguns commonly known
6 as Saturday Night Specials, but did not prohibit the
7 importation of their parts;

8 (2) the United States production of these Saturday
9 Night Specials was less than sixty thousand in 1968,
10 but more than one million in 1971;

I—O

1 (3) approximately 50 per centum of the Saturday
2 Night Specials so produced in 1971 were assembled
3 from foreign parts;

4 (4) no criteria exist concerning the domestic manu-
5 facture of such guns, thus permitting Americans to manu-
6 facture and sell guns deemed too dangerous to import;

7 (5) a substantial number of all gun murders are
8 committed with Saturday Night Specials;

9 (6) these circumstances require additional remedial
10 legislation in the form of the amendments made in this
11 Act of the laws made or amended by the 1968 Gun
12 Control Act.

13 SEC. 2. Chapter 44 of title 18 of the United States Code
14 is amended—

15 (1) by inserting after "firearm" each time it ap-
16 pears in section 922 (1) the following: ", part of a fire-
17 arm,";

18 (2) by adding at the end of section 921 (a) the
19 following new paragraph:

20 “(21) The term ‘part of a firearm’ means a device or
21 object designed or imported to be a component of a fire-
22 arm.”;

23 (3) by striking out the period immediately after
24 “or other business entity” in paragraph (5) of section
25 922 (b) and inserting in lieu thereof “; and”;

1 (4) by striking out "and" at the end of paragraph
2 (4) of section 922 (b) ;

3 (5) by inserting immediately after paragraph (5)
4 but before the final two sentences of section 922 (b)
5 the following new paragraph :

6 “(6) any firearm which is not suitable for sporting
7 purposes, as established under section 926 (b) of this
8 chapter.”; and

9 (7) by inserting “(a)” immediately before the first
10 sentence of section 926, and adding at the end of such
11 section the following new subsection :

12 “(b) The Secretary, in consultation with public officers,
13 including law enforcement officers, and in consultation with
14 private persons technically proficient in the ballistics of
15 firearms, shall, on the record after affording an opportunity
16 for a hearing to all interested parties, make rules establishing
17 the characteristics of firearms not suitable for lawful sporting
18 purposes.”

APPENDIX 3

Additional correspondence and statements submitted for the record

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
October 16, 1975.

Hon. JOHN CONYERS,
Chairman, Subcommittee on Crime,
Washington, D.C.

DEAR CONGRESSMAN CONYERS: I feel very strongly about the issue of gun control. I made the banning of the private ownership of handguns an issue in my campaign and have continued to inform my constituents about the question.

It is my understanding that your Subcommittee is about to publish the text of the hearings it held on this most timely issue. I would, therefore, appreciate it if the enclosed statement which contains my point of view on the subject were to be included in the final "Subcommittee Print."

I would also like to take this opportunity to let you know how much I admire your leadership on this issue. If there is anything I can do to help, please do not hesitate to call.

Sincerely,

STEPHEN J. SOLARZ,
Member of Congress.

Mr. Chairman, the recent assassination attempts on President Ford points out once again the need for strict Federal gun control legislation. In particular, the attempt by Lynette Fromme on our President's life dramatizes the need for the elimination of guns from our society.

That Lynette Fromme, a person with a criminal record who is a known follower of a psychopathic killer was able to obtain a .45 caliber pistol proves that anyone in this country can get hold of a deadly weapon. And the fact that such an armed individual can come within two feet of the President dramatizes the vulnerability of all of us in a society where there are 200 million privately owned firearms.

Fortunately, the assassination attempts on President Ford did not end in tragedy. Last year nearly 20,000 Americans were not as fortunate. Of these murder victims more than half were killed by handguns. These appalling statistics gave our country the highest homicide rate of any developed nation in the world.

In analyzing the reasons for this national disgrace we do not have to look further than our ineffective gun control laws and the fact that of all the industrialized countries of the world we have the largest number of private handguns. This correlation between the availability of pistols and the number of handguns is clearly proved by comparing our homicide rate with that of nations which have strict laws. In 1973, our gun homicide rate was 5 times Canada's, 20 times Denmark's, 32 times the United Kingdom's, 67 times Japan's, and 90 times the Netherlands'.

There is absolutely no reason why this national disgrace should continue. Handguns provide no useful social purpose in a modern society. They have no real recreational value. Nor do they, in the overwhelming number of cases, provide anyone with meaningful protection. In fact, an argument can be made that guns increase rather than decrease the danger to the persons who possess them. As a recent study has shown, a handgun is six times as likely to be used against a family member than a criminal intruder.

Furthermore, the private ownership of guns directly stimulates crimes and causes tragedies. The large number of guns held by law-abiding citizens represents a large arsenal from which criminals can steal from in order to commit crimes. In addition, the easy access to a handgun has turned thousands of family quarrels into irreparable disasters.

If we want to end the slaughter that has been brought upon us we must enact tough and wide ranging gun controls which will all but eliminate private owner-

ship of handguns. That is why I believe we should enact, as soon as possible, H.R. 3532, the Handgun Control Act. This legislation is the strongest gun control measure introduced in Congress. In addition to severely restricting the manufacture of handguns and barring their sale to private individuals it prohibits the possession of handguns, except by law enforcement officials, military personnel, and members of licensed pistol clubs who would be required to keep their handguns on the club premises. The bill would also remove handguns currently in circulation by providing for a cash reimbursement for any handgun owner who turns in his gun voluntarily within the first 6 months the law is in effect, and by imposing stiff criminal penalties for possession after that date.

Despite the protestations of the well financed gun lobby, there is no question that such legislation is constitutional. All Federal court decisions, including five Supreme Court opinions, interpreting the Second Amendment have made it clear that the constitutional provisions barring any infringement of the "people's right to bear arms" applies only to State militias. Since this legislation does not affect any State law enforcement or defense bodies, I seriously doubt that any Supreme Court Justice who has been on the Court in the last 30 years would challenge its constitutionality.

I believe that the enactment of comprehensive Federal controls is the only solution to this problem. As long as a large number of people have guns some firearms will find their way into the hands of criminals. And, as long as there are areas of this country where guns can be easily acquired, no area will be safe. Only a tough national statute will end the current handgun violence.

In conclusion, I would like to say that the American people are ready for such legislation. They have seen a President, a Presidential candidate, a prominent national leader, and thousands of their countrymen die needlessly because of guns. In every poll they have demanded strong legislation to end the violence. In light of the recent tragedy, it is now incumbent upon us to act.

TESTIMONY OF REPRESENTATIVE SAM STEIGER

Mr. Chairman, members of the subcommittee, I appreciate your consideration in allowing me to present to you my views—and what I believe to be the views of most of my constituents—on the tremendously important topic of controlling crime, particularly the crimes of murder and armed robbery. I wish that I might have been able to sit with this distinguished panel so that I might have asked each of the advocates of repressive gun laws just one question: "Where has a gun law reduced crime?"

Gentlemen, that is the issue before this body, and which may soon be before the House as a whole. Unless convincing evidence can be presented that any firearms law will result in a reduction of crime, I do not see why any of us who sit in the House should vote for such a law. Considering that a large percentage of our constituents believe that they have an unfringible right to own firearms for lawful purposes, it is imperative that any measure proposed be subjected to the closest scrutiny, and unless it can be proved to be effective on the basis of prior experience, it should be rejected.

It is not enough to offer an opinion that a proposal will or will not reduce crime. There must be conclusive evidence. I have heard the opinions of my colleagues that this or that type of law—some even calling for the confiscation of privately-owned handguns—will reduce crime, but I have not seen those opinions supported by evidence which will withstand close scrutiny.

Although the Attorney General recently suggested prohibiting small handguns, reducing the number of gun dealers, imposing waiting periods and a check with police and the FBI prior to selling a gun, that proposal was not accompanied by any evidence that such laws have reduced crime—yet identical provisions are in effect in many states and communities. Has their existence cut the crime rates in areas where they are in force? Even a cursory check of the crime statistics shows that they have not. But the Justice Department hasn't made even a cursory check of prior effectiveness, according to a letter written for the Attorney General to one of my constituents. The letter—and I quote—"A study concerning the effectiveness of gun control laws in preventing and controlling crime has not been conducted at the Department of Justice."

My constituent asked for clarification of that statement. Specifically, he wanted to know if Justice Department proposals were based on a mere hunch, or if they

were based on studies conducted by any other agency, or by any research organization. In response to his question, the Justice Department replied on May 23: "The Department of Justice does not possess any study relating to the effectiveness of gun control laws." I have attached a copy of each of those letters, and ask that they be inserted in the record at this point, for they cast serious doubts about the Justice Department's suggestions.

The Justice Department has the most complete statistics available on crime in the U.S. Why hasn't it delegated its researchers, or better yet, those from an independent research organization, to make a thorough, objective statistical study of the effectiveness of gun laws in reducing crime? Considering the millions of words of debate on this issue, and the millions of dollars spent in researching various aspects of crime, it seems inconceivable that such an objective statistical study has not been done. In fact, I suspect that many studies on gun law effectiveness have been done—both within and without the Federal government—and that those studies were buried because they did not show what the gun-haters wanted them to show.

While the advocates of repressive laws have failed to provide any evidence that gun laws work, I propose to provide you with some evidence that they do not work—and some evidence of the type of gun law that does reduce crime.

Gun laws aren't new to the United States. We have some 20,000 gun laws. They range from minimal controls, such as in my district in Arizona, to virtual prohibition of privately-owned handguns, as in New York City. Yet where is the evidence that any of these laws has successfully reduced either murders or robberies?

Strangely, most of the clamor for restrictive gun laws comes from areas which already have such laws—which have not worked. They haven't worked for a very simple reason: They are based on the hopeless premise that a law restricting gun ownership will somehow restrict the criminal who intends to rob, steal or murder. In short, the stated objective of gun laws is to "keep guns out of the hands of criminals." But a criminal is by definition someone who breaks the law.

I am not suggesting that we have to repeal all laws before we can eliminate law-breaking, but the Good Lord found it sufficient to say "Thou shalt not steal" and "Thou shalt not kill." He didn't think it necessary to add any backup injunctions such as "Thou shalt not pick up a rock with which to kill." Gun laws simply do not address the problem—which is killing and robbing—both of which are against the law.

As evidence that what has been proposed cannot work, consider the cities of Chicago, Detroit, New York, Philadelphia and the District of Columbia. Each of these cities has extremely restrictive gun laws right now, and representatives from some of these cities have already appeared before you asking for national laws as restrictive or more restrictive than those they have in their cities. But in those five cities in 1973 there were 4,564 murders according to the FBI Uniform Crime Reports—that's almost 25 percent of all the murders committed in the nation that year! Further, according to the best evidence available, more than 25 percent of all the murders committed with handguns in the nation were committed in those five cities—despite their strict controls upon handguns. Have those gun laws worked?

If the basic premise that the availability of guns creates or increases crime is true, why are the murder rates and robbery rates so much lower in Phoenix? Phoenix, which lies within my district, is far less crime-free than we would like, and it certainly has higher crime rates than many cities I could name which also do not have severe gun control laws, but I know that city, and I know its problems. And its problems do not include the need for gun control laws such as have been proposed before this committee—nor does Phoenix want such a law.

Of the five cities that I named, the murder rate in 1973 ranged from 11.5 to 19.3 per 100,000 residents. The national average in 1973 was 9.3 per 100,000. But in Phoenix, where any honest citizen can have a gun, the murder rate was 8.3. Why should Phoenix emulate the totally unsuccessful laws of those northeastern cities?

I am fully aware that the representatives of those cities told you their gun laws haven't worked because of the "weak" gun laws in the cities and states around them, but I find it impossible to understand how they can make such a claim. If the lenient gun laws in Phoenix are contributing to the high crime rates in New York, why aren't the crime rates of Phoenix higher than New York's?

I think I can tell you. In Arizona we don't think very highly of criminals. And though the punishment for crime in Arizona isn't as swift and certain and severe as some of us would like, I believe the evidence will show that the law

enforcement officers and the courts in Arizona deal more severely with criminals—those who murder and steal—than the courts in those northeastern cities which are more “enlightened” and more crime-ridden than the beautiful Southwest. In my part of the world, we don’t take it lightly when someone kills or rapes or robs. Let me remind you that Arizona has re-instated the death penalty for certain serious offenses in accordance with the Supreme Court ruling. Perhaps the northeastern states which are trying to cram a gun law down Arizona’s throat should try following our example!

Although I’ve been bearing down on the crime of murder, let us not ignore the crime of robbery. According to the 1973 FBI reports there were 145,097 robberies in those same five cities with such “good” gun control laws. To put that number into perspective, there were 382,683 robberies reported to police in the entire nation. Those five cities, with only 14 percent of the nation’s population, accounted for 38 percent of the reported robberies in the country!

On a per capita basis, the robbery rates in those “gun control” cities ranged from 232.6 to 747.0 per 100,000 residents, while the robbery rate in Phoenix was a relatively low 187.1—closely matching the national average of 182.4. Again, Gentlemen, why should Phoenix adopt the gun laws of cities such as Chicago, Detroit, New York, Philadelphia and Washington, D.C.?

Do you believe the citizens of Phoenix and my state of Arizona wish to be disarmed—like most of the law-abiding citizens of those northeastern cities? If you were a robber, would you prefer to commit a robbery in New York where you know your victim is almost certainly disarmed, or in Phoenix where most of the homes have a gun? The question answers itself—and the crime statistics support the answer.

A few days ago, the FBI released the crime statistics for major cities for the first quarter of 1975 compared to the same period in 1974. I believe it is highly significant that Chicago, Detroit, New York, Philadelphia and Washington, D.C. showed further increases in robbery ranging from a low of 14.8 percent to a high of 37.9 percent. But the robbery rate in Phoenix went down 15.2 percent.

And I believe I know the reason why: Last year Arizona enacted a law providing a mandatory prison sentence for committing robbery with a firearm. There are signs warning of that law in almost every grocery store and service station in the state. The thugs know that if they are caught and convicted that they will be sent to prison—and that’s the way it should be. But that is not the way it is in most of the nation; in most areas, the odds are that the robber won’t be caught; and that if caught, he won’t be convicted; and if convicted, he won’t be sent to prison—even if he has prior convictions for serious offenses.

Much has been said before this committee concerning the supposed benefits of restrictive gun laws—even prohibitive gun laws. Considering the success of the prohibition of alcohol, gambling and narcotics, I am amazed that many of my esteemed colleagues are advocating the prohibition of handguns. It is an acknowledged fact that the attempts to prohibit alcohol resulted in increased usage of alcohol, while spawning an unprecedented era of lawlessness.

Further, it astounds me that some of my colleagues who have complained the loudest about “victimless crimes,” who have declared that laws prohibiting certain sexual activities between consenting adults should be repealed, who have advocated repeal of laws against public drunkenness, who have advocated repeal of laws against prostitution and countless other vices in which “there is no victim,” should now completely reverse themselves and advocate severe penalties for law-abiding citizens who have committed no offense except to have a handgun within their homes. I simply cannot understand such hypocrisy.

But back to the evidence concerning gun laws. Some of the advocates of prohibitive laws have noted the fact that murder, particularly murder with a gun, is rare in Japan. There are far too many differences between nations, and their attitudes toward crime and punishment, to begin to claim that the difference in gun laws is responsible for the difference in crime rate. That is not merely an opinion—the evidence is that while Japanese in Japan are unlikely to commit murder, Japanese-Americans in the U.S. are even less likely to commit murder.

Unfortunately, other ethnic groups identified in the FBI Arrest Tables are not so adverse to violent crimes. For a recent five-year period the murder arrest rate for Japanese-Americans was .4 per 100,000, the murder arrest rate per 100,000 for Chinese was 2.2; for American Indians, it was 11.3; for blacks it was 32.7; for Whites and all other categories, the rate was 2.7. What these figures emphasize is that crime is a socio-economic problem. As the members of this com-

mittee, and of this Congress, should be well aware, we cannot solve such severe socio-economic problems by the passage of a firearms law.

I have charged that there is no evidence that firearms laws have reduced crime anywhere in the U.S.; I have produced evidence that widespread gun ownership among the law-abiding may actually result in *less* crime. I have pointed to the evidence that the widely recognized special socio-economic problems of certain groups, particularly Indians and Blacks, is a contributing factor to crime, as evidenced by the extraordinarily high percentage of those disadvantaged groups involved in the crime. I have pointed to the evidence that certain punishment decreased crime.

On the basis of the evidence, I strongly recommend that this committee endorse a law calling for mandatory minimum sentences for all persons convicted of carrying a firearm during the commission of a crime of violence—if such a law fails to have the desired deterrent effect, it will at least be secondarily successful by placing such hoodlums behind bars where they cannot continue to prey upon the public.

I urge, and the majority of my constituents demand, that this Subcommittee reject any bill seeking to place additional restrictions or prohibitions upon the private possession of firearms. Finally, I urge that you ask each advocate of gun laws: "Where has such a law reduced crime?"

STATEMENT BY CONGRESSMAN W. HENSON MOORE

Mr. Chairman and members of the Subcommittee, the overwhelming majority of the letters and other communications I have received from the residents of the Sixth Congressional District of Louisiana express strong opposition to a total ban on private ownership of handguns as proposed in the language of the Handgun Control Act of 1975. As the attention of the Subcommittee on Crime is currently focused on the features of this bill and the Federal Firearms Act of 1975, I would like to convey to the subcommittee my views and those of my constituents in opposition to those stringent gun control measures and in support of more realistic legislation that would punish criminals instead of law-abiding handgun owners.

With the increased momentum for strict gun control as a result of recent attempts on the life of President Ford and increased rates of violent crime in many parts of the country, I urge my colleagues in Congress to keep the rights of our citizenry to keep and bear arms and legislation to throw the book at the criminal foremost in mind. Any proposal to deprive individuals of handgun ownership for lawful purposes or to levy sizeable taxes on handgun owners does nothing to make it more difficult for a criminal to obtain a handgun and use it. If handguns are not available on the open market, a new black market will be created and peddlers of illicit drugs and elements of organized crime will have one more product to sell under the table at inflated prices. Underworld profiteers will gain, not law enforcement officers or the public in general.

Both the Handgun Control Act of 1975 and the Federal Firearms Act of 1975 fail to take these factors into account. When considered with other objectionable features in each bill, I genuinely believe the Subcommittee on Crime would be misinterpreting the legislative wishes of the citizens of this nation if either measure receives favorable action. My disagreement with the Federal Firearms Act of 1975 centers around the entire thrust of the bill in that it would deprive any law-abiding private citizen from owning or possessing a handgun or handgun ammunition of any type for any purpose, impose a \$5,000 fine on anyone who fails to surrender his handgun to federal Treasury officials; and in addition to this stiff fine, a private handgun owner could be imprisoned for up to five years for failure to turn over his handgun or any handgun ammunition. Under the language of the bill, the fair market value of the handgun and any ammunition would be considered a credit for federal income tax purposes. The inconsistencies in the bill and questions that arise from it merit rejection of the Handgun Control Act of 1975. For instance, must small caliber ammunition that may be fired from a handgun as well as a rifle be surrendered? Does the Committee realize that one round of small caliber ammunition placed in a coat pocket, drawer, closet or garage years ago could cause a person to be sent to prison for five years or be fined up to \$5,000? This, of course, is to say nothing of

the fact that the measure deprives law-abiding citizens, store owners, apartment dwellers, home owners, and others of the right to protect themselves and their families from injury or death. The Handgun Control Act of 1975 should be rejected outright.

The second major bill before the Subcommittee on Crime is the Federal Firearms Act of 1975. Although its provisions are less stringent in that the bill does not provide for a blanket ban on private handgun ownership, it is nonetheless an objectionable piece of legislation from the standpoint of unnecessary costs to the handgun owner and cumbersome red tape for local, state and federal law enforcement officers. A \$25 federal excise tax would be levied on each handgun under the provisions of the bill. This simply means a citizen would have to pay more to defend himself. In addition, an individual would have to pay \$15 for a Federal Handgun Owners Identification Card valid for a period of five years. In these days of unmanageable federal red tape and expanding bureaucratic authority, the initial question that comes to my mind is how many new federal employees must be hired to handle the paperwork generated by this type of registration and identification card procedure. As though it is inevitable that the federal gun control machinery would come unglued, an appeals board would be created under the Federal Firearms Act of 1975 to review "through an elaborate appeals procedure" applications from persons whose initial request for identification cards had been denied. In view of these objectionable features, the Federal Firearms Act of 1975 should also be rejected.

In place of these two proposals, it is my belief that legislative action should be focused on the criminal, not the handgun. With this in mind, I introduced H.R. 6242 on April 22. My bill stipulates that not less than five years or more than 15 years shall be added to the sentence of any felon who uses a firearm to commit a crime. Stiff criminal penalties, if known to the individual criminal, deter crime. If federal judges were required to throw the book at the criminal as they would be under my bill, stiff criminal penalties would become the rule rather than the exception to it. Moreover, judges would be prohibited from suspending the additional sentence or making it probationary. Concurrent sentencing would also be prohibited.

In addition to introduction of H.R. 6242, FBI Director Clarence Kelley recently expressed to me his interest in legislation to prohibit gun ownership for former felons. While I support the intent of his proposal, criminals who want to buy guns illegally will no doubt still be able to do so. However, it is a step in the right direction and I would encourage the Subcommittee on Crime to give Director Kelley's thoughts favorable consideration.

Above all else, I urge the Subcommittee on Crime to remember that criminals, not guns, are responsible for violent crimes. If this thought is kept foremost in mind, I am certain Congress will act responsibly to help reduce the number of crimes committed with handguns.

STATEMENT OF DONALD H. SCHWAB, DIRECTOR, NATIONAL LEGISLATIVE SERVICE,
VETERANS OF FOREIGN WARS OF THE UNITED STATES

Thank you for the privilege of presenting to this distinguished Subcommittee the views of the Veterans of Foreign Wars of the United States regarding pending gun control legislation.

My name is Donald H. Schwab and my title is Director of the National Legislative Service of the Veterans of Foreign Wars of the United States.

The voting delegates to the 76th National Convention of the Veterans of Foreign Wars of the United States, held in Los Angeles, California, August 15-22, 1975, representing our 1.8 million members, adopted Resolution No. 302, entitled, "Control of Handguns", the content of which follows:

Whereas the United States Congress is considering a number of legislative bills concerning various methods of controlling handguns or their ammunition, and

Whereas any controls on either will in practice be ineffective and result in disarming the lawful citizen while simultaneously resulting in armed criminals: Now, therefore, be it

Resolved, That by the 76th National Convention of the Veterans of Foreign Wars of the United States, that we convey to the Congress of the United States our strong opposition to proposed legislation controlling handguns and their ammunition.

The rationale for our position stems from two sources, one, legal, and the other, common sense.

First, we believe gun control, as envisioned in pending legislation, would abridge the rights guaranteed by Article II of the Bill of Rights, entitled, "Right to keep and bear arms."

Second, as with all laws, only the law abiding citizen would comply therewith—not the criminal element such would seek to deter.

The V.F.W. concurs wholly with the President's Special Message to Congress on Crime of June 19, 1975. Extracted and quoted herewith are pertinent portions of the President's remarks:

"The most effective way to combat the illicit use of handguns by criminals is to provide mandatory prison sentences for anyone who uses a gun in the commission of a crime.

"In addition, the federal government can be of assistance to state and local enforcement efforts by prohibiting the manufacture of so-called Saturday Night Specials that have no apparent use other than against human beings and by improving Federal firearms laws and their enforcement.

"At the same time, however, we must make certain that our efforts to regulate the illicit use of handguns do not infringe upon the rights of law abiding citizens. I am unilaterally opposed to Federal registration of guns or the licensing of gun owners. I will oppose any effort to impose such requirements as a matter of Federal policy."

The Veterans of Foreign Wars of the United States appreciates the concern of this Subcommittee in an issue which evokes deeply held feelings on both sides. We know you will give proper consideration to our concern in your deliberations of the bills now before you.

Thank you.

UNITED STATES CATHOLIC CONFERENCE,
DEPARTMENT OF SOCIAL DEVELOPMENT AND WORLD PEACE,
Washington, D.C., September 12, 1975.

Hon. JOHN CONYERS, Jr.,
Chairman, House Subcommittee on Crime,
Washington, D.C.

DEAR REPRESENTATIVE CONYERS: The Social Development and World Peace Committee of the U.S. Catholic Conference has recently adopted the enclosed policy statement on handgun control.

The statement entitled, "Handgun Violence: A Threat To Life," calls for "effective and courageous action to control handguns, leading to their eventual elimination from our society."

The Bishops' Committee said only prohibiting the importation, manufacture, sale, possession and use of handguns with exceptions for police, military, security guards and pistol clubs will provide a comprehensive response to handgun violence.

The Committee also expressed support for other measures including a cooling-off period, a ban on "Saturday Night Specials," registration and licensing and more effective enforcement of existing laws.

The U.S. Catholic Conference hopes you and your Subcommittee will provide effective leadership in reversing the rising tide of handgun violence. We look forward to working with you in support of strong handgun control.

Sincerely,

MSGR. FRANCIS J. LALLY,
Secretary, Department of Social
Development and World Peace.

Enclosure.

HANDGUN VIOLENCE: A THREAT TO LIFE

THE PROBLEM

There are currently 40 million handguns in the United States.¹ More than 2½ million new handguns will be manufactured and sold this year. In most of our cities and rural areas, purchasing a weapon is as easy as buying a camera.

¹ Estimate of the Division of Alcohol, Firearms and Tobacco, U.S. Department of the Treasury. Handgun refers to a firearm held and fired by the hand, usually a pistol or revolver. It does not include rifles, shotguns, long guns or other shoulder arms.

In 1973, the last year for which complete figures were available, there were 28,000 firearms deaths.² In 1975, it is estimated that nearly 30,000 will die from gunshot wounds. Added to this are over 100,000 people wounded by guns each year, the victims of 160,000 armed robberies and 100,000 assaults with guns.³

Gun accidents are now the fifth most common accidental cause of death according to the National Safety Council. In 1973, 2,700 people died in gun-related accidents.

Some have suggested that homeowners and citizens should arm themselves to protect their families from murder, assault or robbery. The sad fact is that a handgun purchased for protection is often used in a moment of rage or fear against a relative or acquaintance. A recent study in the Cleveland area indicates guns purchased for protection resulted in the deaths of six times as many family members, friends and neighbors as intruders or assailants.⁴ The 1973 *FBI Uniform Crime Report* indicates that of all murders almost 25 percent involved one family member killing another and an additional 40 percent occur among people who are acquainted. Most homicides are not the result of criminal design but rather they are the outcome of quarrels and arguments among spouses, friends and acquaintances. In these situations, it is the ready availability of handguns that often leads to tragic and deadly results.

Handguns play a disproportionate role in gun violence. They account for 53 percent of all murders, yet make up only 20 percent of all firearms. The problem is growing. The annual sales of handguns have quadrupled in the last ten years.

A NATIONAL FIREARMS POLICY

The growing reality and extent of violent crime is of great concern to the Committee on Social Development and World Peace and all Americans. It threatens more and more of our citizens and communities. The cost of this violence in terms of human life and suffering is enormous. We speak out of pastoral concern as persons called to proclaim the Gospel of Jesus, who "came that they may have life and have it to the full." (John 10:10). We are deeply committed to upholding the value of human life and opposing those forces which threaten it.

One of these factors is the easy availability of handguns in our society. Because it is so easily concealed, the handgun is often the weapon of crime. Because it is so readily available, it is often the weapon of passion and suicide.

This is clearly a national problem. No state or locality is immune from the rising tide of violence. Individual state and local action can only provide a partial solution. We must have a coherent national firearms policy responsive to the overall public interest and respectful of the rights and privileges of all Americans. The unlimited freedom to possess and use handguns must give way to the rights of all people to safety and protection against those who mis-use these weapons.

We believe that effective action must be taken to reverse this rising tide of violence. For this reason, we call for effective and courageous action to control handguns, leading to their eventual elimination from our society. Of course, reasonable exceptions ought to be made for the police, military, security guards and pistols clubs where guns would be kept on the premises under secure conditions.

We recognize that this may be a long process before truly comprehensive control is realized. We therefore endorse the following steps to regulate the use and sale of handguns:

(1) A several day cooling-off period. This delay between the time of the sale and possession of the handgun by the purchaser should result in fewer crimes of passion.

² There were 13,070 murders involving firearms according to *Crime in the United States 1973*, the FBI Uniform Crime Report (September 1974). In addition, there were 2,700 deaths involving firearms accidents according to *Accident Facts*, National Safety Council. And, approximately 13,317 people committed suicides with firearms according to the National Center for Health Statistics.

³ *Crime in the United States 1973*, FBI Uniform Crime Report, September 1974.

⁴ A 1968-1972 study of the Medical School of Case Western University. Of the 131 persons killed, 114 were family members or other acquaintance killed because a gun was present in the home and 17 were robbers or other persons engaged in criminal activity.

(2) A ban on "Saturday Night Specials." These weapons are cheap, poorly made pistols often used in street crime.

(3) Registration of handguns. This measure could provide an improved system of tracing weapons by law enforcement officials. Registration will tell us how many guns there are and who owns them.

(4) Licensing of handgun owners. Handguns should not be available to juveniles, convicted felons, the mentally ill and persons with a history of drug or alcohol abuse.

(5) More effective controls and better enforcement of existing laws regulating the manufacture, importation and sale of handguns.

These individual steps will not completely eliminate the abuse of handguns. We believe that only prohibiting the importation, manufacture, sale, possession and use of handguns, with the exceptions we have already cited, will provide a comprehensive response to handgun violence.

CONCLUSION

We realize this is a controversial issue and that some people of good faith will find themselves opposed to these measures. We acknowledge that controlling possession of handguns will not eliminate gun violence, but we believe it is an indispensable element for any serious or rational approach to the problem.

We support the legitimate and proper use of rifles and shotguns for hunting and recreational purposes. We do not wish to unduly burden hunters and sportsmen. On the contrary, we wish to involve them in a joint effort to eliminate the criminal and deadly mis-use of handguns.

We are, of course, concerned about the rights of the individual, as these rights are grounded in the Constitution and in the universal design of our Creator. We are convinced that our position is entirely in accord with the rights guaranteed by our Constitution, and particularly with the Second Amendment to the Constitution as these rights have been clarified by the United States Supreme Court. We affirm the traditional principle that individual rights to private property are limited by the universal demands of social order and human safety as well as the common good.

NOTE.—This statement was authorized by the USCC Administrative Board on Sept. 11, 1975.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 5, 1975.

Hon. JOHN CONYERS,
Chairman, Subcommittee on Crime, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I want to thank you for giving me the opportunity to testify the other day on my gun control bill, H.R. 1685. I am most impressed with your efforts to deal with this controversial subject in a responsible fashion, and I hope your committee will be able to report out a piece of legislation which will become law.

Subsequent to my testimony one of my constituents brought to my attention a further thought on the subject which I would like you to include in your deliberations. My constituent suggests that a gun lock be required to be sold along with each gun sold. The term "gun lock" would mean an external, removable, key-operated, piece of equipment which, when in place, would prevent the gun from being fired.

Obviously gun purchasers cannot effectively be made to use such a lock, but, like seat belts, if the lock is there and available with every gun, some will use it and some firearms accidents and deaths will be prevented.

I offer this suggestion because I think it is one which the committee could effectively add to any gun bill it approves, and because I think it would be one good way to deal with accidental gun firings, keeping in mind, of course, that the major thrust of your work is to control the criminal use of guns.

Thank you for your consideration.

Sincerely,

GILBERT GUDE.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 16, 1975.

HON. JOHN CONYERS, JR.,
Chairman, House Judiciary Subcommittee on Crime, B351-B, Rayburn House
Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: For the Subcommittee's consideration, and your official records, I am enclosing the following petitions opposing any and all legislation on gun control pending in the U. S. Congress:

1. Petition of the Northeast Missouri Gun Club, Kirksville, Missouri (1638 cosigners);

2. Petition of Robert E. Barlow, Gallatin, Missouri (approximately 200 cosigners);

3. Petition of the Nemo Gun Club, Inc., Kirksville, Missouri (approximately 150 cosigners); and

4. Petitions of Chillicothe, Missouri citizens (approximately 150 cosigners).

Since my letter to you of April 8, to which there was attached a petition submitted by my constituent, Mr. Gary Roberts, my constituent mail opposing gun control legislation, or the proposed ban on handgun ammunition, has increased to approximately 65 to 70 letters per day.

I hope this information will be helpful to you in your deliberations.

With best regards,

Sincerely,

JERRY LITTON, *Member of Congress.*

Enclosures, 6 petitions.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 16, 1975.

HON. JOHN CONYERS,
Chairman, Crime Subcommittee,
House Judiciary Committee.

DEAR MR. CHAIRMAN: Enclosed is a self-explanatory letter that has been sent me by Mr. R. Michael Landis.

I will appreciate your having someone respond to me about the recommendations he makes.

Many thanks.

SAM M. GIBBONS.

Congressman SAM GIBBONS
United States House of Representatives, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: I am writing to give you my thoughts on a piece of legislation which I understand is now in the "proposed" stages. It concerns the interstate transport of firearms.

In my particular case, I will be separating from the Army at Fort Carson, Colorado, on July 31, and plan to carry my handgun with me on my trip back to Florida, via a total of 15 states, including the District of Columbia.

I queried the Tobacco, Alcohol, and Firearms Division of the IRS in Denver regarding federal regulations concerning the interstate transport of firearms. I was told that there were no particular regulations governing this area, but that if I disassembled the gun and packed it in my luggage and stored it in the trunk of my car, "I shouldn't have any problems." Or, that an even better solution would be to stop at the first information booth I come to in each state and arrange to comply with that state's regulations. I consider both of these solutions undesirable. The first one, I don't mind going to the trouble, because I have no malicious intentions. But I could run into some problems in certain states which are sticky on "concealed" weapons if I should happen to be stopped and searched. The second solution is extremely time consuming and could cost me an arm and a leg.

Some legislation on the federal level is in dire need here. Something simple, such as a letter of certification available at the local level, along with transporting the weapon in an inaccessible part of the car would be in order. I'm sure that this proposed legislation has been well-thought-out and will be a big improvement over the non-existent present laws. I urge you to support this legislation. And, if you possibly could, I would like some information regarding this.

Sincerely,

R. MICHAEL LANDIS.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 2, 1975.

Hon. JOHN CONYERS
2444 Rayburn H.O.B.

DEAR JOHN: The suggestion in the enclosed letter—that all firearms undergo a presale ballistics test to be registered with the FBI—might be of interest to you in your consideration of gun control legislation.

Best regards,
Sincerely,

AL ULLMAN,
House of Representatives.

Enclosure.

Hon. AL ULLMAN,
U.S. Congress, Washington, D.C.

DEAR SIR: I read another article in the paper today (Tom Wicker Oregonian May 24, 1975) about gun control and I'm finally moved, after several years, to present my plan to you.

First, I am, as you know, a retired USAF pilot. I am also a gun collector and target shooting enthusiast. As a former Los Angeles Policeman (7 years) I am familiar with crime from a "professional" standpoint. I also firmly believe in the "rights" of people to own handguns.

But—the solution is so simple to the problem of effective law enforcement, some criminal deterrent and still allow private ownership that I wonder it hasn't been used before. (Maybe it has been proposed and discarded).

Just require all manufacturers (or importers) to furnish the FBI with a sample bullet from each gun before its first sale.

First, it would give law enforcement a place to start if a gun is fired.

Second, it would deter owners from selling or lending their guns if they knew it could be traced to them if fired in a crime.

Third, it would deter criminals from firing guns if they knew it could be traced to them.

Fourth, such a law could be passed!

I realize some may say simple possession of a gun is amoral but we all know prohibition is, if not impossible, at least extremely difficult.

The argument that a gun can still be stolen (or be a Saturday night special) and therefore not traceable applies now so it has no affect to my proposal since it would still be true during a complete ban.

Respectfully,

JAMES H. BARNARD,
Troutdale, Ore.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 11, 1975.

Hon. PETER RODINO, Jr.,
Chairman, Committee on the Judiciary, 2137 Rayburn House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of a letter I have received from Mr. Lindsey C. Daughtry, a retired policeman from Norfolk, Virginia.

I think Mr. Daughtry has made some excellent points on gun control, and I would appreciate it if you would take his suggestions into consideration.

Thank you for your assistance.

Sincerely,

G. WILLIAM WHITEHURST.

Enclosure.

JULY 8, 1975.

Hon. G. WILLIAM WHITEHURST,
House of Representatives,
Washington, D.C.

DEAR SIR: I am a retired Norfolk city policeman and I have a great concern about pending gun control legislation. I would like to offer the following suggestions:

1. For extra protection of citizens and also an aid to policemen on active duty, issue a life time permit to qualified retired policemen who would be

trained people at no cost to a city or state. These permits could be of course revoked by the chief of police for reasons of misconduct or abuse.

2. Register all hand gun serial numbers with your local police.

3. Have weapon examined for safety and quality.

4. Fire the pistol for the purpose of getting a ballistic test. The ballistic test would be cross-referenced with the serial number of the pistol. This would be very helpful since so many times weapons are thrown away after a crime. The projectile at the scene of the crime would be as good as a fingerprint.

5. For crimes such as rape, robbery, murder, or threatening of a witness and a hand gun is used bail should not be allowed while a hearing is being arranged.

6. Registration should be transferred upon disposal of a weapon from one person to another at the same place of registration.

Sincerely yours,

LINDSEY C. DAUGHTRY.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 17, 1975.

HON. PETER W. RODINO, JR.,
Chairman, House Judiciary Committee, 2137 Rayburn House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of correspondence received from Mr. Robert R. Perry, President of Mohawk Sintered Alloys Incorporated of Cobleskill, New York outlining his concern over the provisions of HR 3773, a bill to prohibit the sale of "Saturday Night Special" handguns.

It is my hope that Mr. Perry's views will be of value to the members of the Subcommittee on Crime which is presently conducting hearings on handgun legislation.

Thank you for your consideration.

Sincerely,

DONALD J. MITCHELL,
Member of Congress.

MOHAWK SINTERED ALLOYS, INC.,
Cobleskill, N.Y., July 14, 1975.

Congressman DONALD MITCHELL,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. MITCHELL: I have recently learned of Rep. John Dingell's proposed bill H.R. 3773. I understand that the purpose of this proposed legislation is to halt the manufacture of cheap "Saturday Night Special" guns. I support the objective for such legislation.

However, this proposed legislation states that "structural components may not be used which melt at less than 1,000 degrees or are made of a material of a tensile strength of less than 55,000 psi or powdered metal components having a density of less than 7.5 g/cc". As a manufacturer of high quality powdered metal components which are used in firearms produced by such companies as Savage Arms, Marlin, and O. F. Mossberg, I object strenuously to the inclusion of legislation involving complex technology such as ours without getting the facts from qualified people in our industry. If the present language that I have quoted above were passed, we would be virtually legislated out of the firearms market. The impact on our five-year-old company would be extremely serious.

In our Schoharie County location, with its perennial high unemployment, I have regretfully watched the serious setbacks of the few local manufacturing businesses during the past year. With massive lay-offs at Penn Dixie and Burton Industries, and the shut-down of Northeastern Engine Corp. and the local Indian Head textile mill, we have managed to survive and grow in spite of the current economic climate.

Please do not let over-simplified legislation involving our technology pass and damage our future prospects.

Enclosed is our brochure describing our Cobleskill operation. We now have twenty-six employees and are approaching annual sales of \$1,000,000.

Sincerely yours,

ROBERT R. PERRY,
President, Mohawk Sintered Alloys, Inc.

**EBENEZER UNITED METHODIST CHURCH,
Washington, D.C., February 18, 1975.**

Hon. PETER W. RODINO, Jr.,
Chairman, Judiciary Committee, House of Representatives, Washington, D.C.

Sir: We commend the efforts of Congressman Fauntroy and others toward Federal handgun legislation, and congratulate the House of Representatives Judiciary Committee on holding hearings on the legislation and trust that the Committee and our Congressional solons will consider this matter most thoroughly and come to a favorable resolution of this critical situation in our cities.

As to the argument in favor of guns for self-protection, is it too much to ask that sensible people act out of sound reason and think twice about keeping guns for protection?

What good is a handgun in the house, the car or even in a pocket, when a criminal has one in your face or back?

On the other hand, there are many dangers in keeping guns in the house for protection, such as accidents involving children, sudden urges toward suicide, or unmediated crimes of suddenly exploding passions, resulting in death, if a gun is available.

Why not get behind Congressman Fauntroy's Federal handgun control bill, and put some teeth in the law dealing with the "Saturday Night Specials"?

We note that the legislation in question rightfully exempts hunting rifles and shotguns (except sawed-off shotguns) and handguns in the hands of law enforcement officials, and gun fanciers and members of especially licensed clubs or groups, under certain conditions such as target practice.

Why not go a step further in such a law and make the life sentence mandatory for anyone using a handgun in the act of committing a crime?

In the terrible aftermath of handgun crimes there is, first, the grief, hopelessness, debt and despair of the surviving families of innocent, worthy individuals, even "Good Samaritans", who are the hapless victims of senseless murder by gunshot on the streets of our cities, often by persons previously convicted of criminal acts and yet walking the city streets.

In turn, this is compounded by their frustration at the seeming helplessness, even powerlessness, of the authorities to bring the perpetrators of such crimes to justice, or even to the point of a fair trial in the courts.

The ownership of handguns, in non-criminals, causes, at most, a false sense of security. In the hands of criminals, they are a public hazard on the streets of our cities, day or night, and a horror-filled scourge to that sacred spark of life which all humans—whatever may be their means, their station in life, their education or abilities: whether they live in the inner-city ghetto or the affluent suburbs—are entitled to enjoy, without the fear or threat of being deprived of that SACRED LIFE through violence.

Very truly yours,

Rev. STANFORD J. HARRIS.

NATIONAL GRANGE,
Washington, D.C., February 28, 1975.

Hon. JOHN CONYERS, Jr.,
Chairman, Subcommittee on Crime, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The National Grange has a long history of support for the concept that the Constitution guarantees the right of the individual to bear arms. In fact, we support the Bill of Rights, which states "a well-regulated militia being necessary to the security of a free state, the right of people to keep and bear arms shall not be infringed."

The National Grange has debated this issue for many years, each year favoring more and more the right of private citizens to bear arms. At our 101st Annual Session in 1967 the Grange reaffirmed the position it had taken in 1965:

1. We oppose federal legislation to infringe upon the right of citizens to own or bear arms or that would lead to or impose a federal registration of arms.

2. We recognize the right and the duty of the Federal government to prohibit the accumulation of an arsenal of similar weapons or any heavy weapons.

3. We recognize the right and the responsibility of state, county and local units of government to control the use of hand guns and to prevent their falling into the hands of minors, convicted criminals or those with a history of mental instability.

4. We would support reasonable legislation to provide controls on the interstate shipment of handguns and pistols, to prevent their acquisition by juveniles, felons and mentally incompetents.

However, in 1972, the Delegate Body of the National Grange adopted the following regarding firearms control: Now, therefore, be it

Resolved, by the National Grange That we oppose legislation that prohibits or restricts ownership of weapons as guaranteed by the second amendment to the Constitution of the United States; and be it further

Resolved, That we go on record as opposing laws which restrict, in any way the rights of a citizen to own a gun, buy ammunition for it and use it to defend himself and his home.

This same position was reaffirmed at our 107th Annual Session in 1973.

The National Grange, at our 108th Annual Session in 1974, adopted the following resolution regarding firearms control.

"FIREARMS CONTROL"

The Grange is a champion of Constitutional government and to that end we are firm believers of the rights and privileges granted to the citizenry under our Constitution. The right to bear arms is one of those rights granted by our Constitution and we firmly believe that this right must not be restricted.

We would appreciate your calling this statement to the attention of you committee and would urge that you make this letter a part of the hearing record.

Sincerely,

JOHN W. SCOTT,
Master.

LOUISVILLE SPORTSMAN'S CLUB,
Louisville, Ohio, March 19, 1975.

HOUSE JUDICIARY SUBCOMMITTEE ON CRIME,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMEN: Please kindly accept the enclosed copies as a rebuttal to the testimony given before this committee by Dr. Stefan Pasternack, professor of psychiatry at Georgetown University.

I also want to go on record asking you not to get into gun legislation but concentrate upon people who commit crimes with guns. I suggest mandatory sentences.

The attached article supports our claim of gun crimes being a people problem rather than a gun problem.

Sincerely,

J. C. SURREY,
Editor and Trustee.

LOUISVILLE SPORTSMAN'S CLUB,
Louisville, Ohio, April 1975.

The funeral of free ownership of your gun is near.

On March 17 the Plain Dealer carried an article by Thomas J. Brazatis. He described testimony given before a House Judiciary Subcommittee on Crime by Dr. Stefan A. Pasternack, an assistant professor of psychiatry at Georgetown University.

Practically all of the testimony given by Dr. Pasternack describes people—Some of the words and phrases he uses to describe the people who commit gun crimes are as follows: (A) one who accepts the commandment "Thou shalt not kill," but resorts to violence when pushed to an emotional breaking point, (B) someone under mounting stress with increasing anxiety, tension and fear, (C) he is suffering some tremendous emotional defeat and cannot stand pain, (D) He feels helpless, impotent, (E) He feels victimized, (F) persons who enjoy killing and take pleasure in seeing their victims suffer, (G) chronic psychotics, (H) law abiding persons who lose control, Dr. Pasternack continued his word description by giving an example using further word descriptions of his example people. (I) a man with inability to get ahead in his job, (J) projected anger into his wife, (K) suspected his wife of infidelity, (L) overworked and drunk, (M) quarreled with his wife regarding behavior change and during an angry con-

frontation, (N) he threatened to beat her, (O) pulled out his gun, (P) he shot her, (Q) denied intent to kill, (R) deeply rooted feelings of anger and frustration.

He continued by stating that High School pupils in inner cities carry a handgun as a "matter of pride, a sign of social standing" he went on quoting statistics on gun crimes in the U.S.A. in the last century.

Although the great Dr. Pasternack is in favor of gun restrictions he also admits that it is "politically unrealistic" to ban handguns.

Dr. Pasternack unknowingly gave 19 reasons why the gun is not to blame for gun crimes, unknowingly he made a declaration that pin-points and drops the challenge to solve all the afore-mentioned mental health problems right in his own lap or maybe he is admitting failure of some psychiatrists to respond to the new rapid pace of metropolitan living in a megalopolis.

We admit that Dr. Pasternack has done a tremendous job in pointing out the reasons for many of the problems in our high schools. High School students are not much different from other people, many who possess a reasonable degree of pride and the desire to display a sign of social standing. Without these characteristics in a student—our schools have failed. When 'The tree Was Bent at home' was when the student acquired the misconception or misinterpretation of pride and social standing. (Write your Congressman—Don't blame the gun.)

J. SURBEY, *Editor.*

THE IZAAK WALTON LEAGUE OF AMERICA,
Harrisonburg, Va., April 6, 1975.

Representative JOHN CONYERS,
Chairman, Subcommittee on Crime of the House Judiciary Committee, House Office Building, Washington, D.C.

DEAR SIR: We are writing to your committee to let you know how we as concerned citizens feel about handgun control. We feel that this is a round about way to disarm the American people, so they can take us over without a fight with the average citizen. Furthermore, we hope that the following four statements will be taken into consideration in any decision that you will make regarding handgun control.

(1) The individual is the exclusive owner of his own life and of all the products of his life.

(2) No one has the right to initiate force or threaten to do so against an individual for any reason. (The individual may use "retaliatory" force to defend himself, his property, or his rights.)

(3) Any relationship between individuals which is mutually agreeable may not be interfered with by anyone for any reason.

(4) Right are not additive. No group has any right beyond those inherent in each of its individual members. (Anything immoral for an individual is immoral for the group; anything moral for a group may not be forbidden the individual.)

We, the Harrisonburg-Rockingham Chapter of the Izaak Walton League request that in the light of the foregoing statements, that no law to ban handguns nor any firearms used by sportsmen be banned from the private citizen. (One hundred member club.)

Respectfully yours,

LESTER P. BURTNER, *Secretary.*

AMERICAN PISTOL AND REVOLVER ASSOCIATION, INC.,
Los Angeles, Calif., April 17, 1975.

HON. JOHN CONYERS, JR.,
*House Office Building,
Washington, D.C.*

DEAR CONGRESSMAN CONYERS: We urge you to support Congressman Steven Symms' bill, H.R. 1087, to prohibit the Consumer Product Safety Commission from restricting the manufacture and sale of firearms or ammunition.

We support Congressman Symms and Hansen's efforts to repeal the Federal Firearms Act of 1968 and urge you to vote for its repeal.

The Federal Firearms Act of 1968 has discouraged many law abiding citizens from purchasing firearms and ammunition, but it has not discouraged criminals. Statistics have proven a steady increase in crime since this law went into effect.

WHEN GUNS ARE OUTLAWED, ONLY OUTLAWS WILL HAVE GUNS

Furthermore, our Constitution guarantees the right to keep and bear arms. The Second Amendment is absolute and cannot be violated.

Sincerely yours,

ELLIOTT S. GRAHAM, *President.*

B'NAI B'RITH WOMEN,
May 30, 1975.

HON. JOHN CONYERS, Jr.,
House of Representatives,
Washington, D.C.

DEAR MR. CONYERS: Enclosed is a copy of a resolution as passed at the meeting of the National Executive Board of B'nai B'rith Women, convened in Washington, D.C., May 5-7, 1975.

B'nai B'rith Women, an international Jewish women's service organization comprised of 140,000 members in the United States, maintain a deep interest in the affairs of the day and in matters of public and social concern.

We hope that you will find this resolution of interest, as a statement of our position.

Sincerely yours,

MRS. MILTON T. SMITH,
International President.
NORMA GILBERT,
Director of Public Affairs.

Enclosure.

RESOLUTION: HANDGUN BAN

B'nai B'rith Women has, in past years, been an active proponent of the limitation of firearms in the United States, stating its public support of legislation which would prohibit mail-order sales and importation, as well as establish registration and licensing of firearms.

Recognizing, however, the pace at which crime rates have soared in the United States during recent years, we feel more stringent controls are necessary for the safety of our citizens. Serious crime in the United States rose 17 percent in 1974, the highest annual increase since the Federal Bureau of Investigation began collecting crime statistics 45 years ago. Some 25,000 persons are killed each year in the United States by guns, which includes deaths occurring by murder, suicide and accident. A startling proportion—53 percent of such killings—occur through the use of a handgun. Because the handgun is available, it is frequently used in so-called crimes of passion or in accidents, such as those occurring among family and neighbors—statistics show that a gun kept around the house is six times as likely to kill a family member as it is to kill an intruder. Because it is concealable, it is the weapon most often used in crime. It is estimated that more than 40 million handguns now exist in public hands—one for every five persons in the U.S.

A recent poll of taxicab passengers in Chicago revealed that 85 percent of the people support the banning of handguns; a similar poll in Washington, D.C. resulted in 82 percent to ban handguns. A study in Ohio shows that during the sixties, not only did the death rate from criminal use of firearms increase with the proliferation of handgun sales, but that accidental deaths increased by 100 percent in a suburban area, while increasing four-fold in the city of Cleveland. Mayor Abraham Beame of New York and former D.C. Police Chief Jerry Wilsou comprise two of the many public figures asking for a ban on the sale and possession of handguns.

We are aware that the United States has the least effective gun laws of the civilized world today; and the highest gun death rates. We recognize that what is needed are not halfway measures such as the banning of the "Saturday Night Special" or licensing and registration laws, but a virtually complete elimination of easy access to handguns by private citizens.

B'nai B'rith Women, therefore, reiterates its long-standing policy in favor of gun control legislation, expanding our position to now seek to ban the importation, sale distribution and ownership of handguns to the general public (except for the military, police, antique dealers, and pistol clubs, where the weapons would be kept under secure conditions). Additionally, we would support proposals to ban the sale of ammunition for handguns, as a further deter-

rent to ownership. We urge the enactment in the Congress of the United States of legislation to achieve this critical goal, for the security of the citizens of this nation.

WOMAN'S NATIONAL DEMOCRATIC CLUB,
Washington, D.C., July 21, 1974.

HON. JOHN CONYERS, Jr.,
Chairman, Subcommittee on Crime, Committee on the Judiciary, U.S. House of Representatives, 2137 Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN CONYERS: The Women's National Democratic Club, an organization of more than 2,000 women representing every segment of the Democratic constituency, has formulated a position on the critical issue of handgun controls.

Pending legislation reveals a broad range of approaches to the serious national problem of increasing handgun deaths. Having studied these alternatives, we are convinced that strong and prompt action is required to stem the senseless proliferation of deadly handguns among our citizens. We therefore urge you to support legislation which would:

Prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs.

In addition to urging your support, we respectfully request an opportunity to present our views at any future committee hearings on gun controls held here in Washington.

Handgun controls is a controversial and often emotional issue. Strong leadership is needed for enactment of good legislation. We hope you will be part of that leadership.

Sincerely yours,

MARY MUNROE, *President.*

JOINT WASHINGTON OFFICE FOR SOCIAL CONCERN,
Washington, D.C., August 4, 1975.

HON. JOHN CONYERS,
Chairman, House Sub-Committee on Crime, Washington, D.C.

DEAR MR. CONYERS: The recently released, record-high crime figures, as well as the tragic slaying of Washington Post newsdealer, Kenneth Walker, impress on me again the need for greater federal gun control in this country.

Despite the fact that repeated legislative efforts a gun control have been thwarted, you no doubt are aware that a majority in this country favor increased firearms restrictions, according to numerous polls. The July 5th New York Times of this year showed that nationwide, 67% advocated firearm registration, including 55 percent of this country's gun-owners.

Of particular concern to me is the small, easy-to-conceal prized handiwork of homicide and suicide: the handgun.

It is, to me, almost irrefutable that the high death toll in this country due to handgun violence is directly linked to the easy accessibility of handguns. In those countries with tight restrictions on handgun possession, such as Great Britain and Japan, handgun deaths are virtually nil. Contrary to the specter the gun lobby often raises, law-abiding citizens are not, in those countries, at the utter mercy of firearm-equipped outlaws. (In Britain, in 1972, there were exactly two handgun murders; there were more such homicides in this country that year every 39 hours.)

Some claim that such countries are categorically different from this one, lacking our inordinately violent, gun-toting heritage that precludes any restrictions on firearm possession. But those communities in this country which have restrictions on gun-possession also have low firearm-crime rates. New York City, its tight "Sullivan Law," ranked tenth out of fifteen major American cities in the number of homicides per 10,000.¹ Such flies in the face of the gun lobby claim

¹ In a study conducted in 1969.

that New York is notoriously plagued with violent crime; therefore, severe gun restrictions such as New York has are failures. That crime which does occur in New York involving guns frequently is committed with weapons imported from communities where gun laws are lax. You may have seen the television spot on "sixty minutes," with Mike Wallace, in which he discusses the "South Carolina connection," for New York firearms.

Of course, the 1968 gun law is inadequate, either in preventing convicted criminals with more than a year imprisonment from obtaining firearms, or in forbidding the importation of "Saturday Night Specials," or even in prohibiting mail-orders of firearms across state lines. Convicted criminals can merely tell a proprietor otherwise—and purchase a firearm. The 1968 law forbids importing of "Specials"—but not parts for Saturday Night Specials. Now, there are more sold each year I have read than before the law was enacted. Furthermore, someone can buy guns by mail, by paying the ten dollar fee to become a "dealer."

Moreover, too many deaths occur at the hands of otherwise law-abiding citizens. "Crimes of passion," I gather, are the most common kinds of handgun murders.

I see no reason why those who wish to use handguns for sport and recreation should not hold their weapons and ammunition in the custody of licensed clubs.

I personally hope you will report out a bill banning private possession of handguns; I believe it is an idea, another one, whose time has come.

But in the absence of such a possibility, I hope at least you will urge registration of firearms. The "gun lobby" often points out that many more people are killed each year in automobile accidents, and I quite agree that mass transit is a safer alternative. But it does not choose to mention that, of course, we have a registration and licensing system for automobiles, and for those whose records merit it, licenses can be suspended. By all means the same should apply to firearms.

Yours sincerely,

BEN BORTIN,
Unitarian Universalist Association.

JOINT WASHINGTON OFFICE FOR SOCIAL CONCERN,
Washington, D.C., August 4, 1975.

HON. JOHN CONYERS,
*Chairman, House Sub-Committee on Crime,
Washington, D.C.*

DEAR MR. CONYERS: The recently released, record-high crime figures, as well as the tragic slaying of Washington Post newsdealer, Kenneth Walker, impress on me again the need for greater federal gun control in this country.

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study conducted in 1969.

does occur in New York involving guns frequently is committed with weapons imported from communities where gun laws are lax. You may have seen the television spot on "sixty minutes," with Mike Wallace, in which he discusses the "South Carolina connection," for New York firearms.

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I personally hope you will report out a bill banning private possession of handguns; I believe it is an idea, another one, whose time has come.

But in the absence of such a possibility, I hope at least you will urge registration of firearms. The "gun lobby" often points out that many more people are killed each year in automobile accidents, and I quite agree that mass transit is a safer alternative. But it does not choose to mention that, of course, we have a registration and licensing system for automobiles, and for those whose records merit it, licenses can be suspended. By all means the same should apply to firearms.

Yours sincerely,

BEN BORTIN,
Unitarian Universalist Association.

CITIZENS FOR RESPONSIBLE GOVERNMENT,
Rancho Cordova, Calif., August 6, 1975.

Hon. PETER W. RODINO,
Chairman, House Judiciary Committee,
Washington, D.C.

MEMBERS IN SESSION: The members of the Citizens for Responsible Government Committee point out to you that the Second Amendment guarantee of the right of American citizens to keep and bear arms makes no exception of handguns, cheap or otherwise.

The meaning of the Second Amendment is clear. It can be argued that the constitutional right does not protect individual ownership of battleships or bombers; but rifles, shotguns and, above all, handguns are among the convenient and traditional types of arms which individual citizens can reasonably be expected to keep and bear in the interest of the security of a free state.

Through your committee we formally request the establishment of appropriate punishment, including fine, imprisonment and forfeiture of office, for those law-makers who persist in exceeding their authority and violating their oaths of office—which are contractual agreements with the people—by introducing unconstitutional gun control legislation.

We further request the reading of this letter at a regular meeting of the full Committee.

Yours respectfully,

JOHN L. STEELY, *Research Director, CRG.*

AMERICAN BAR ASSOCIATION,
Chicago, Ill., September 5, 1975.

Re Gun Control—Resolution 101A.

Hon. JOHN CONYEAS, JR.,
Chairman, Subcommittee on Crime, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the meeting of the House of Delegates of the American Bar Association held August 11–13, 1975 the attached resolution was adopted upon recommendation of the Section of Criminal Justice.

This resolution is being transmitted for your information and whatever action you may deem appropriate.

Please do not hesitate to let us know if you need any further information or have any questions, or whether we can be of any assistance.

Sincerely yours,

HERBERT D. SLEDO.

Enclosure.

AMERICAN BAR ASSOCIATION—HOUSE OF DELEGATES, SECTION OF CRIMINAL JUSTICE

RESOLUTION 101A—AUGUST 1975

I. Resolved, That the American Bar Association, recognizing the alarming increase in serious and violent crimes committed by those in possession of handguns, and recognizing inadequacies of existing federal and state legislation concerning firearms, and having considered the established policy of this Association which supports "the enactment of appropriate state and federal legislation providing effective control of the importation, sale, transportation and possession of firearms," reaffirms said policy and recommends these immediate actions, which are consistent with such policy, as minimum steps to more fully implement the Gun Control Act of 1968 (P.L. 90-618, 82 Stat. 1213) and to give effect to the mandate of the existing policy of the American Bar Association:

A. Resolved, That the American Bar Association recommends that the Gun Control Act of 1968 be amended so as to cure demonstrated, legal deficiencies, specifically,

1. That Section 922(a) (1) of the Act, making it unlawful for any person, except a licensed dealer, licensed manufacturer, or licensed importer to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, be amended to provide that,

"It shall be unlawful for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, their parts or components . . ."

2. That Section 921 (4) of the Act, which defines a "destructive device" as not including any device not likely to be used as a weapon or which the owner intends to use solely for sporting purposes, be amended to define the term "sporting purposes" as, "The term, 'firearm for sporting purposes' any rifle, shotgun, long gun, or handgun appropriate for the purposes of hunting, trap shooting, target shooting, or organized competition shooting, meeting prescribed specifications, including barrel length, weight, type sight, type of grip, caliber, safety mechanism and other factors as prescribed by the Secretary of the Treasury."

3. That Section 923 of the Act, providing for the licensing of dealers, manufacturers and importers, be amended to upgrade the standards of eligibility for licensing of dealers, importers and manufacturers specified within Section 923 (a), and be further amended to make the conferral of such licenses, pursuant to Section 923(c) and (d) a discretionary rather than a mandatory action, by amending these subsections to read,

"(c) Upon the filing of a proper application fee, and payment of the prescribed fee, and upon completion of reasonable investigation made to determine that the applicant is not an individual, as provided by Section 922(b) (1), 922(g) and (h) of this Act, for whom it is unlawful to ship, transport, receive or possess a firearm, the Secretary may issue to a qualified applicant the appropriate license . . ."

"(d) (1) Any application submitted under subsection (a) or (b) of this section may be approved if—"

4. That Section 922(c) of the Act, providing for the execution of a sworn statement, by the transferee of a firearm, to the effect that the transferee is not an individual, within the meaning of the Act, for whom it is unlawful to possess a firearm, be amended to include a procedure, such as a waiting period between purchase and transfer of possession during which times the transferor shall report the transfer of the firearm and the identity of the transferee, to the Bureau of Alcohol, Tobacco, and Firearms.

5. That Section 922 of the Act, specifying unlawful acts, be amended to include the provisions of Section 842(j) and (k) of the Organized Crime Control Act of 1970 (P.L. 91-452, 84 Stat. 922) and that Section 923 of the Gun Control Act of 1968, concerning licensing, be amended to include the provisions of Section 843(b)

(4) of the Organized Crime Control Act; the effect of both proposed amendments being to require dealers, manufacturers, transporters, and importers of firearms, ammunition, their parts or components, to provide adequate and secure storage facilities for firearms, or ammunition within their possession, in order to reduce the incidence of theft of firearms and ammunition, and also to report any losses or thefts of such items, within their possession, to the Bureau of Alcohol, Tobacco, and Firearms.

6. That, insofar as the language of the Act has been construed in *U.S. v. Bass* 404 U.S. 336 (1971), contrary to the intent of the Congress, to require, after the effective date of said Act, a nexus of a transaction in interstate commerce, with proof of venue, in order for the receipt or possession of a firearm by a convicted felon to be a violation of the Act, that Section 1202 of the Act, providing "receives, possesses, or transports in commerce or affecting commerce," be amended to change the jurisdictional basis for prohibition of possession of a firearm, under the present statute, from reliance upon transport in interstate commerce to (1) constituting a burden on commerce, and (2) a threat to the effective enforcement of the Federal criminal laws, including those laws designed to protect the safety of the President.

B. *Resolved*, That the American Bar Association recommends that the Gun Control Act of 1968 be further strengthened by more effective implementation of existing firearms controls, specifically,

1. That the Judiciary be encouraged to impose severe penalties, to the extent consistent with the American Bar Association Standards for the Administration of Criminal Justice, for the possession or use of a firearm or facsimile in the commission of a crime, as provided for by Section 924(c) of the Act.

2. That the Congress and the Executive Branch, through the President, be urged to provide adequate appropriation and manpower resources to the Bureau of Alcohol, Tobacco and Firearms, and to other Federal law enforcement officials, both prospective and investigative, for the purpose of enforcing the Act.

3. That periodic review be made of the eligibility of the possessors of handguns, consistent with the safeguards of due process.

II. *Resolved*, That the American Bar Association, recognizing the crisis created by the increase in serious and violent crimes committed by those in possession of handguns, recommends that additional legislation be enacted, specifically,

A. *Resolved*, That the American Bar Association, urges that Federal investigators and prosecutors should be directed wherever feasible, to assign a high priority and major importance to alleged firearms offenses, particularly those which are repeated offenses committed by previously convicted felons. To that end, the American Bar Association supports the objectives of the current Career Criminal Program, sponsored by the U.S. Department of Justice, designed to target such offenses and criminals for rapid prosecution through the criminal justice system.

B. *Resolved*, That the American Bar Association urges effective cooperation among federal, state, and local law enforcement agencies in investigating and prosecuting firearms offenses, and accordingly supports the objectives of the U.S. Department of Justice's Federal-State Law Enforcement Committees, which are now being established in each federal judicial district to foster such cooperation.

III. *Be it further resolved*, That the President of the Association or his designee be authorized to communicate the positions taken on these recommendations to the appropriate individuals or entities, including, where warranted, testimony before committees of the Congress.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, D.C., September 9, 1975.

Hon. JOHN CONYERS, Jr.

Chairman, Subcommittee on Crime, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CONYERS: As Chairman of the Intergovernmental Relations Committee of the National Conference of State Legislatures, I am writing to inform you and your committee of the resolution we have adopted dealing with Saturday Night Specials. The National Conference of State Legislatures represents the nation's 7,600 legislators and their staffs in the 50 states. The Intergovernmental Relations Committee is comprised of 550 legislators and makes

policy recommendations on state-federal relations to our entire conference at our annual meeting.

After the delegates to our October 7-10, 1975 Annual Meeting debate and vote on this policy resolution, we would be very interested in testifying at any further hearings on gun control which your subcommittee may hold. It is my understanding that the Subcommittee on Crime will be ending the hearing process on this topic in the near future, with the possibility of one or two additional days of scheduled hearings. If additional hearings should be held, I would appreciate it if your staff could contact Mr. Jeffrey L. Esser, who staffs our task force on Criminal Justice and Consumer Affairs.

Thank you in advance for your consideration of our position and if you should have any questions, please do not hesitate to contact me.

Sincerely,

Representative TOM JENSEN,

Chairman, Intergovernmental Relations Committee.

Enclosure.

POLICY POSITION ON "SATURDAY NIGHT SPECIAL HANDGUNS"

The Intergovernmental Relations Committee of the National Conference of State Legislatures recognizes that handguns are commonly the tool of criminals in the commission of homicides, assaults, and armed robberies. It is further recognized that our nation's law enforcement officers constantly find their lives and the lives of the citizenry in danger.

The Intergovernmental Relations Committee of the National Conference of State Legislatures therefore urges states to enact and enforce penalties for the commission of a crime with a handgun or the illegal possession of a handgun.

The Committee further supports the President and Congress in their efforts to ban the interstate and international manufacture and sale of handguns commonly referred to as the "Saturday night special."

LOS ANGELES COUNTY BAR ASSOCIATION,
Los Angeles, Calif., September 9, 1975.

HON. JOHN CONYERS,
Chairman, Judiciary Subcommittee on Crime,
Washington, D.C.

DEAR CHAIRMAN CONYERS: In view of your committee's prospective legislative program dealing with handgun control, I take the liberty of submitting to you the position of the Board of Trustees of the Los Angeles County Bar Association, whose membership comprises over 12,400 members of the Bar. It was adopted on April 30, 1975.

I am sure you are familiar with the fact that the State Bar of California is also supporting legislation in California prohibiting ownership or possession of handguns, except for law enforcement officers, members of the armed services, financial guards, antique gun collectors (inoperable devices and members of licensed pistol clubs.

Respectfully yours,

FRANCIS M. WHEAT, *President.*

JOINT STATEMENT OF THE BOARD OF DIRECTORS OF THE BAR ASSOCIATION OF SAN FRANCISCO, AND THE TRUSTEES OF THE LOS ANGELES COUNTY BAR ASSOCIATION

Our attention has been focused on the grave problems associated with the presence of tens of millions of handguns in private ownership in our society by the proposal recently advanced by Attorney General Edward H. Levi for a partial ban on handguns. The Levi proposal deserves a swift and thoughtful response from all concerned citizens.

Our commitment as lawyers is to the peaceful resolution of disputes. In fulfilling this commitment, it is our common purpose to afford due process of law for all.

At present approximately 2.5 million handguns are manufactured annually in the United States. Official estimates now conclude that 35 million handguns are in circulation. In 1972, 18,500 Americans were murdered—10,000,

or 65% of these murders were handgun related. During the period 1963-1973, 909 policemen were killed as a result of criminal action—604, or 72 percent of these deaths were handgun related. Forty percent of handgun fatalities involve persons under 19 years of age, many occurring on school campuses. Three out of four murders are committed with handguns by previously law-abiding citizens on impulse during arguments with family members or acquaintances. Only 2% of reported home robberies and 1 percent of home burglaries result in the intruder being shot by the householder.

Handguns provide no security for the person, only the false illusion of security which turns into a death trap far more often than it protects life.

A localized or partial restriction on handguns will not work. If handguns are permitted at one place or at one time, they will not remain isolated either in time or place.

It is our conviction, borne of sustained tragic experience, that we need a national and comprehensive ban on all handguns. Piecemeal efforts have failed, but a comprehensive ban on handguns will provide a valuable tool for law enforcement. If we have a reverence for human life, we will not equivocate or temporize.

We join in supporting any responsible effort to end the carnage caused by the handgun.

Sen. RODINO,
House Judiciary Committee,
Washington, D.C.

DEAR SENATOR RODINO: Why is it impossible to get guns off the street? If guns were out of the home (at least) so many household arguments would be settled without the use of a bullet. Thousands of people are killed yearly in the home through the use of a gun, and thoughtlessly used in the heat of a argument. Whether it is between husband and wife, lover, or sometimes child, the effect is the same. Someone ends up dead and no one knows why the gun was there in the first place. Perhaps controlling bullets are the answer if we can't get people to turn in their guns. Certainly gun control should go hand in hand with ammunition control.

If people want to shoot guns—why not at licensed firing ranges or clubs where guns could be registered and left locked away at the club location. There is no need to take a gun with you if the purpose of the gun is for firing practice and "sport".

I feel that a mandatory five year sentence should be given in any violation of the law that involves a gun. I am talking about a sentence that could not be suspended, commuted, or whatever, by a judge or jury. If a person has used a gun while violating the law—make that person realize that by having a gun they are adding five years to their sentence. Who needs capital punishment if we can control the guns? Isn't that the way most people die; not from a knife or club but by a gun?

Some people say it is too easy to get a gun illegally or legally, and no one would turn in their guns. We can provide an incentive, such as a tax deduction or cash refund for the value of the gun. Don't you think it would be worth any amount of money to get people to turn in useable guns? Some cities have tried it and have run out of money it was so successful. We allow "Saturday night specials" to be imported to this country only to be assembled and sold for illegal purposes. Why? We have got to control the manufacturing and importation of all guns and ammunition.

What do we, the average citizen, need to do to convince the Congress that we do not want to own guns. I know the gun lobby is suppose to be very big—but just how big do you think we the citizens are? Just continue doing what has been done (nothing) about gun control and you will see just how big the citizen lobby can be. I mean letters, telegrams, picketing, and demonstrations that will surpass any peace demonstration that Washington has ever seen before. Don't think the American citizen will continue to set back and let the gun lobby control our laws. We all know whose interests they're concerned with. Now its time to see whose interests Congress is concerned for.

Sincerely yours,

LINDA D. MCCORMICK.

Hon. PETER RODINO,
House Judiciary Committee,
Washington, D.C.

DEAR MR. RODINO: I am writing to you to request your support for H.R. 2313, The Handgun Control Act of 1975. I sincerely hope that you, and the members of your Committee, not only report favorably on this bill, but actively seek support for it among your Congressional colleagues. I have read through the bill and believe it will be more effective in controlling handguns than the other bills you are considering in Committee.

I am a junior-high school teacher in Prince George's County, Maryland. I have always been concerned by the ease with which my students (most under 16 yrs.) can obtain handguns. Their casual, indeed offhand manner toward these weapons has long been on my mind. The following incident, which occurred one month ago, prompts me to write to you now.

One of my students, a 15 year old boy, is dead. He was shot at a party by a 17 year friend of his. The older boy, for reasons that are not yet clear, produced a gun and pointed it at several of the people in the room. His victim stood up and told him to "put the gun away and stop playing." The killer said something to the effect of "I'll show you I'm not playing", and pulled the trigger. Thirty minutes later, enroute to the Baltimore Shock and Trauma Center, the boy died.

This tragic incident is just one of many which might have been prevented by effective gun-control legislation. It is one in a long list of examples which point to the easy accessibility of handguns. But I think there is a factor operating here which is too often not considered. Many people are aware of the immediate danger of guns in the hands of irresponsible people. But how many are aware of another danger: the carelessness that can result from constant exposure to these weapons? I think it is significant that none of the children at that party were more than mildly alarmed by the appearance of that gun. Handguns are so common in their community that they have become almost indifferent to their presence. I've spoken to them about this many times and their attitude frightens me. Even the boy who was killed had no fear of guns. He was so used to seeing them, was so comfortable around them, that he really did not believe a gun would ever hurt him. He thought he could "take care of himself." And he was not alone in this feeling. Perhaps it was this carelessness that led him to challenge someone pointing a gun at him. Perhaps this same carelessness allowed the killer to fire so casually. I believe it is a point worth considering.

The children in this area are not strangers to guns. I have been in the junior high school for three years. In that time, one boy shot himself, another was convicted of manslaughter (a shooting incident), a girl was accidentally shot and killed while playing with a gun and, one month ago, a young boy was murdered. Section 2(c) of H.R. 2313 states:

"Most homicides are committed in altercations between relatives, neighbors or other acquaintances, rather than in a confrontation between strangers.

It is vital that you and the members of your Committee realize that too often the victims of handguns are children. Be aware that we may be raising a generation whose exposure to handguns has made them feel immune to its dangers. I cannot urge you too strongly to consider this consequence when you consider H.R. 2313. Emphasize to the members of your committee the effect such legislation may have on our children and enlist their support in the passage of this bill. Please take this opportunity to do what you can to prevent any more wasted lives.

Sincerely yours,

Ms. JOHN R. PETERS.

FEBRUARY 19, 1975.

Hon. PETER RODINO,
Chairman, House Judiciary Committee,
Washington, D.C.

DEAR CONGRESSMAN RODINO: I have consulted with law enforcement experts in my area and I pass on to you what they think would be good laws for gun control. (I, myself, would rather see handguns eliminated, but since that is practically impossible with the National Rifle Association standing around, I'll go along with these police ideas.)

¹ Outlaw, except for military and law enforcement organizations, all auto-
weapons. (With careful wording this would also cover switchblades.)

2. Require all gun manufacturers (except, of course, manufacturers of shot-guns) to register each gun, complete with a bullet fired from that gun with the FBI.

3. All gun sellers must also see that the guns on their shelves are also registered by serial number and bullet sent to the FBI.

4. All gun buyers must have a permit to buy a gun.

5. All bullets may only be sold to persons who have a gun which has been registered, and bullets may only be sold in the suitable caliber for that gun.

6. Any citizen caught with an unregistered gun, whether committing a crime or not, would get a minimum of five years in prison. It should be assumed that all persons who obtain unregistered guns have bought them to commit a crime.

7. Specifications should be set up by the Government controlling quality and safety of gun manufacture. (That should neatly eliminate the Saturday night special.)

8. Persons who apply for permits for guns should be required to take a course in gun safety. (This should mollify the NRA. They give the courses.)

That ought to do it.

Very truly yours,

Ms. BETSY FREITAG.

Representative PETER RODINO,
House Judiciary Committee,
Washington, D.C.

DEAR REPRESENTATIVE RODINO: I understand your committee is preparing to examine the need for stricter gun control. Statistics should prove this need. Yet, simple 'control' is not enough. An outright ban is necessary.

There is no reason today why a citizen needs to carry a handgun. I lived in Detroit in 1971 when there were over 600 murders, most of them with handguns by friends or relatives of the victims. The killers were not criminals or syndicate men, but ordinary people who had access to death.

In 1972, I was transferred to Grand Rapids. One of the men who worked for me killed himself with a .22 caliber handgun when he accidentally wounded his sister-in-law with it. He was 31 years old. If the gun had not been available, it would not have happened!

What America needs is a total ban on the manufacture, sale and import of all handguns and their parts for anyone except law enforcement agencies. A further need is warranted for rifles. The NRA notwithstanding, these guns, while not as dangerous, must also be strictly controlled. Perhaps all guns should be stored with the police and the owners may sign them out when they want them and sign them in again when they are through with them.

Mr. Rodino, the carnage must stop. You and your committee resisted the pressure and performed admirably when you were against the White House. Please do not buckle under to the gun lobbyists this time. This time you can save the country from murder, not just scandal.

I would be pleased to discuss this with you at your convenience. Thank you.

Sincerely,

AUGUSTINE F. UBALDI.

ALEXANDRIA, VA., February 20, 1975.

HON. PETER RODINO,
Chairman, Committee on the Judiciary,
Washington, D.C.

DEAR REPRESENTATIVE RODINO: I recently heard an editorial sponsored by the American Broadcasting Corporation advising all concerned citizens to contact you with regard to a pending fire arm legislation.

It is very disturbing to hear on national network television that the cause of rising crime is based on the existence of guns rather than the inability of our society to deal with the criminal mentality. As a sportsman, I resent the implications made by such anti-gun groups in their efforts to deprive me in the pursuit of my hobby.

I am a native New Yorker, where despite the fact that I am of legal age, have never been arrested or convicted of any crime whatsoever and am a member of a legitimate shooting facility and furnished several references by professionals and community leaders attesting to my morals and character, it took more than

six months for me to obtain by handgun permit. On the other hand, however, I am ashamed to know of many individuals in possession of handguns obtained on the streets of New York without permits or registrations. I can almost guarantee that these people do not intend to use their guns for sporting purposes, but because of their illegitimacy, these guns can not be traced or controlled by law enforcement. Any police official will tell you of the illegal gun traffic brought about by the New York's Sullivan Act, which unfortunately, has had the same effect on guns as prohibition had on liquor.

It would seem that somewhere along the way the crime problem seems to have become confused and lost sight of behind the fog created by a few well intentioned, but misinformed individuals. You have probably heard the statement "guns don't kill people, people kill people"; fire arms, like automobiles are responsive only to the person using it. Instead of wasting time and money trying to outlaw guns only to see them taken out of the hands of law abiding citizens and reappear illegally, I believe we should concentrate our efforts on the cause of crimes. Our society must be educated to understand that the laws governing will be enforced by the police and that the courts will render judgement on each case with swift but equitable decisions. Some of the plea bargaining and delaying tactics which is permitted to go on in our courts both by prosecution and defense can only be surpassed in its absurdity by our parole system. If our courts are over crowded then we should build more courts and hire more judges. Outlawing guns. I can assure you, will not alleviate our problems.

It seems to be fashionable today to build a political soap box to getting "guns off the streets". It is really too bad that those people alleging to be so concerned about public safety don't realize that their proposals can only be equated to a doctor treating appendicitis with Pepto Bismol. Should it ever come to pass that a law is in affect prohibiting private citizens from possession of hand guns, I can assure you that this law would have no effect on those individuals possessing the same guns for illegal purposes, if anything, such a law would increase the Black Market business of fire arms. As long as there are criminals, they will be able to obtain weapons.

I would appreciate it greatly if you would forward to me, your thoughts and reactions based on the contents of this letter.

Sincerely,

MICHAEL R. STOLL.

WALDORF, MD., February 23, 1975.

HON. JOHN CONYERS,
Chairman, House Subcommittee on Gun Control,
Washington, D.C.

DEAR MR. CONYERS: A recent WMAL (Washington, D.C.) radio editorial brought to light the fact that there are considerably greater numbers of antigun control lobbyists than there are prolobbyists. I feel I must bolster the latter numbers by one.

I am presently a career federal employee, with some measure of responsibility. Among other things, though, I am also a past police officer, a current associate member of the International Association of Chiefs of Police, a current member of the National Sheriff's Association, a part-time student in Law Enforcement Administration at the University of Maryland and, above all, a concerned citizen on the matter of handguns.

One hears the rationale that imposition of gun controls would infringe upon our Constitutional rights; one might also expect to hear that controls on the felony of murder constitutes the same type of infringement; infringement on our right of free expression, since murder might be termed the ultimate expression of freedom when it is enacted upon anyone who may be infringing upon our freedom. This is, of course, an absurd analogy, but to me it is no more absurd than the rationalization that gun controls are anticonstitutional.

I do not believe anyone who intelligently advocates gun-control legislation believes it will be a panacea to the problem, but there are very few panaceas to any problems, only sensible controls to constrain their impact.

I should, therefore, like to emphatically offer my full support for gun controls and ask that such legislation be enacted at the earliest possible moment.

Thank you.

Very truly yours,

THOMAS E. ALLEN.

ALEXANDRIA, VA., February 25, 1975.

Hon. JOHN CONYERS,
Chairman, House Judiciary Subcommittee,
Washington, D.C.

DEAR MR. CHAIRMAN: Every day I read about the scores of killings and robberies which occur daily in the D.C. area and suburbs, as well as in other large cities, most of them occurring with handguns which can be easily concealed. The numbers of robberies with handguns has risen so fast recently that it is really very frightening.

Citizens arming themselves with more handguns in retaliation or defense is not the answer. Registering the guns is not the answer (Many a stolen gun has been used). Why do we need to have handguns at all? Handguns are manufactured and sold for the sole purpose of killing people!

The only solution is to completely ban the manufacture and sales of handguns! If nobody had handguns, then others wouldn't feel the need to arm themselves in defense. I feel Americans must be disarmed, severe punishment inflicted if a handgun is even owned, and imports prohibited. There must be a very strict enforcement.

Eliminating a weapon as small, concealable and deadly as a handgun, I dare say, would cut down immensely on the number of robberies and the killings which are a result of attempted robbery.

It is not easy to ignore the gun lobbyists and gun egocentrics, but it must be done for the safety of our citizens and the future of our great country.

Sincerely,

Dr. and Mrs. ROBERT H. MILLER.

FEBRUARY 20, 1975.

Representative JOHN CONYERS,
Rayburn Office Building,
Washington, D.C.

DEAR CONGRESSMAN CONYERS: I understand that you are currently conducting some hearings on the subject of gun control. Several members of the Senate and House have introduced bills which would ban private ownership of handguns, except for police personnel. I urge that any handgun ban would be made to apply to police, also, except in extreme situations, for the following reasons:

1. The FBI Uniform Crime Reports show that 15 percent of policemen killed in the line of duty were murdered with their own guns. If ownership of handguns were banned desperate criminals might well be encouraged to steal firearms from police or military sources, or shoot police with their own weapons in a struggle. If a policeman carries no pistol, it can't be taken away from him by a criminal, and if the law works and criminals are disarmed, the average police officer should have no need to defend himself with a sidearm.

2. There is ample evidence that some policemen are prone to abuse their power, and an armed police officer with a grudge or prejudice against an unarmed citizen could terrorize such a citizen unmercifully. There are many examples of armed police officers breaking into the homes of the black community, and/or people with "different" lifestyles or politics, and harassing people at gunpoint. The raids at Collinsville, Illinois, in which innocent citizens were victimized by Federal narcotics agents, armed and acting without a warrant, show that needless brutality is not confined to local police.

In my home city of Bloomington, Indiana, armed police supposedly looking for a "rabid dog" (they shot a dog which was proved by autopsy to be perfectly healthy) broke into several homes of university students without warrants and without probable cause, harassing the occupants. It seems to me that if a citizen is disarmed but the police are not, unscrupulous law enforcement officers could and would deprive people of their civil rights with impunity. I feel that it is extremely dangerous for a government to have such total power over its citizens. While a victim of police harassment may have redress (in some States an "agent of the State" can't be sued easily) through the courts, a dead victim is unable to sue.

Not all police officers are bad, of course, but they are human, and it is human nature to throw one's weight around, especially if the law makes you almost inviolate. I urge you to consider the threat to public safety inherent in not controlling the armament of police as well as citizens.

Thank you for listening.

Sincerely,

BEATRIX D. WHITEHALL.

THE U.S. NEWS-LETTER,
Washington, D.C., March 5, 1975.

DEAR MR. MCCLOSKEY: I have recently moved to the District from Palo Alto. Needless to say, it has been quite a change! To preserve the link with the sunshine, and because I'm not sure how long I'll be here, I maintain my legal voting residence there. So, although the tale I tell is "local," please regard me as the constituent I am. I mention this only because it seems reasonable to expect that my former neighbors may be of a different mind than myself, and I urge you to consider my plea most carefully.

I write with regard to the gun control measures that may come before Congress this year. I realize that absolutely prohibiting guns on the streets is in direct conflict with a certain "right to bear firearms" clause with which we are both familiar. But what I urge is that you consider supporting some measure of gun control.

A friend recently took my young golden retriever out for a late-afternoon walk on East Capitol Street, not ten blocks from the Capitol. He was accosted by three black youths, who held a gun to his temple and asked for cash. Angered and insecure, perhaps, over finding him without even a wallet, they turned to my dog, his tail wagging I'm sure, and shot him at close range between the eyes. My friend proceeded to flee, and they fired after him.

The death of my dog saddened me. But the chilling implication in this story is that it could have been my friend, it could have been myself, it could be you next time. While I recognize the risks of living in an integrated area, ad infinitum, it is difficult to accept this incident without wondering why three 18 year olds (all with previous records it turns out) had access to a gun in the first place.

This occurrence was the tenth armed incident in that area of East Capitol Street in two weeks. That's a pretty dramatic statistic. And the Metropolitan Police assure me that such incidents are on a sharp upswing everywhere. I know that the recession and unemployment are causing many problems. Still, it seems that the overall consciousness of those who would arm themselves in walking down the street does not warrant easy access to firearms.

To personalize this even more, I myself was robbed and raped at gunpoint 8 years ago in a middle-of-the-day incident in Golden Gate Park in S.F. I was accompanied by two men and one woman at the time. However, this "gang" numbered fourteen. And they were armed. The S.F. Police termed it a "freak incident." Mr. McCloskey, I am really beginning to wonder.

Please, please consider supporting some measure of gun control. It is tragic that it is necessary in this society. Since it apparently is, we must turn our thoughts to implementing a system whereby all factions—except the criminal element—can be satisfied.

My intent is not to bog you down with personal dramas. Yet I know my two experiences (and I am only 24) are not unique, or even unusual.

I am appealing to you to take a stand for rational, feasible control of firearms. The police cannot be expected to combat such a widespread problem. Legislation could certainly help them out—it would certainly help me out as I walk the dog I will soon get.

I am usually the last to advocate federal regulation of something that might impinge upon Constitutional rights . . . I feel in this case that my rights are more threatened by my fellowperson at present. I will gladly surrender my right to bear arms if I must in order to enhance the prospects of my survival. An abstract privilege, liberating as the concept is, has ceased to be as important as my physical safety.

Thank you for your attention.

Sincerely,

LYNN MURPHY,
Editorial Assistant.

BALTIMORE, MD., April 10, 1975.

Hon. JOHN CONYERS, Jr.,
Chairman, Judiciary Subcommittee on Crime,
U.S. House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE CONYERS: I urge you to move for a hasty and favorable consideration of H.R. 638, introduced by Representative Abner J. Mikva, banning importation, manufacture, and sale of handguns . . . etc. I feel that as chair-

man of the Judiciary Subcommittee on Crime, it is your responsibility to work for the passage of this bill.

Arguments against this legislation by the National Rifle Association are no longer acceptable to the citizens of this country. In lieu of the ever increasing crime rate reports of senseless killings by handguns, the public deserves, finally, stringent handgun control legislation. I am aware that to date you have not acted to promote the passage of H.R. 638 through your committee. I also believe that the mayor of Detroit, an area that you represent, does not favor this bill. This bill is one that citizens who live in fear of crime all over the country deserve, and it should not be held up by any committee chairman or whoever may influence him. As a matter of fact, the citizens of my city, Baltimore, gave overwhelming support to a local Gun Bounty Program, which existed as long as local funds were available to reimburse the volunteers who turned in their guns. I look forward to seeing such a program nationwide.

It is about time for members of Congress to disentangle themselves from the powerful lobby that has for so long effectively prevented the gun control the public is entitled to. NRA's special interest should not be in handguns, and their major argument is unconstitutional: In *United States v. Miller* (307 U.S. 174) the Supreme Court held that the right to keep and bear arms was, in fact, limited to the military, not an individual right. Individuals have no right to possess an instrument with the sole purpose being harm and fatality. I urge Congressmen who fear the effect the NRA may have on their re-election to re-evaluate statistics and records and to consider the interest of the public who actually do have power in the polls.

The citizens of this country have nothing to fear from passage of Mr. Mikva's bill. Guns used for hunting or sporting purposes are given very reasonable regulation, and, as we all know, the average person who keeps a gun in his house for protection purposes finds such instrument unfeasible in efficiency or often a cause of needless tragedy from accident. I urge you to use your influence for the good of the country in securing passage of H.A. 638 to promote the welfare of the citizens.

Sincerely,

CONNIE J. BOWERS.

THURMONT, MD., April 14, 1975.

HON. JOHN CONYERS,
State Office Building,
Washington, D.C.

DEAR SIR: We think it is disgraceful that the National Rifle Association and often a cause of needless tragedy from accident. I urge you to use your influence thereof—to NOT pass a bill prohibiting the use of handguns—thus being RESPONSIBLE, themselves, for nearly all of the murders committed in this country. HOW CAN THEY SLEEP AT NIGHT?

Every day, if you listen to the radio, you hear of a rash of shootings. The Consumer Product Safety Commission has a legal obligation to ban hand gun bullets!

Polls show that 85 per cent of the people want strong gun control and we want Congress to do what the majority of people really want. Why should Congress listen to the usual letter flak triggered by the National Rifle Association whenever any kind of gun control is under consideration when they know they will be responsible for the murders committed?

You will soon be holding hearings on gun control. Keep these facts in mind when ruling on bullets and guns.

Very sincerely yours,

Mr. and Mrs. L. K. THOMPSON.

ALEXANDRIA, VA., April 15, 1975.

HON. PETER J. RODINO,
Room 2462 Rayburn Building,
Washington, D.C.

DEAR CONGRESSMAN RODINO: I remain very amazed at the inability of our Congress to truly represent the will (legitimate) of the people of this fair country. I refer to the demonstrated inability of our Congress to effectively legislate gun controls.

Study after study, poll after poll, and statistics after statistics clearly reveal that the American public insists on relief from unlimited weapon availability, yet neither the Federal Government nor the majority of states have been able to effectuate the public will for the public good.

Deliberate control over "murder" weapons does not equate to any restriction on pure sportsmen endeavors at all and I believe we all have the responsibility to let the public know this.

I advocate strict hand gun control and the registration of all fire-arms for the primary purpose of safety for our people. And simple registration for the purpose of eliminating the blind, neurotic, convicted felons should in no way affect the legitimate possession of fire-arms by sportsmen in this country.

I sincerely hope that Congress will not again bow to the determined efforts of the lobbying sports associations to the detriment of the great majority of the American people.

Respectfully submitted.

VINCENT H. SANTORO.

APRIL 24, 1975.

Hon. JOHN CONYERS, Jr.

Chairman, House Judiciary Crime Subcommittee.

DEAR SIR: Regarding the present hearings on Gun Control. I am opposed to any further legislation for control of guns.

We have existing laws and expect the law enforcement agencies to do their part in effecting these laws.

Rather than more laws even to banning the Saturday Night Special, will not do this nation any good. If one exception is made, lawyers will find loopholes and thereby, further laws would have to be made.

I propose, the sellers of these weapons be fined and heavily, for not conforming to the requirements of knowing the residence and reporting the sale of any hand gun to local authorities. Failure to do so is also breaking the law and these people should be called to account also. They are benefitting from the sales.

Also, the age of the purchaser should be recorded and reported. Many of the juveniles involved with crimes, can go into any shop and purchase a gun, if he has the money.

Banning gun sales for all is denying us one of our individual rights. This country is fast being turned into a "controlled society" because of the few who are breaking the laws that have been established and successful for the majority, until suddenly, leniency for the offenders is the mode of the day!

I am a mother of four girls and two boys, and my husband respected my wishes for no guns in the house because I believe, when the "cats away, the kids will play" just to disprove the parents!

Now that the children are older, he has bought guns for hunting with our boys, but not until the boys take the Gun Handling course offered by the National Rifle Association. Which to me is one of the important things to know. Respect the instruments functions and use it correctly.

Just as I have emphasized, a car can be a lethal weapon in the wrong hands and for the wrong purpose, so is a gun. Both are controlled by the individual.

I believe instead of more laws to protect the few who disregard any type of control, especially SELF Control! I believe our educators who advocate, doing your own things are ineffect, promoting the increase in crime also.

No Gun Control will work until Self Control is taught.

I should also like to submit to you an article that I believe, should be known to all Americans. This perhaps will explain also my strong opposition to Gun Control.

Thank you,

Mrs. JUNE A. DEARING,
Concerned American.

[From Leaves Magazines, Apr. 15, 1975]

COMMUNIST RULES FOR REVOLUTION

In May of 1919, at Dusseldorf, Germany, the Allied forces obtained a copy of the "Communist Rules of Revolution." And now, nearly 50 years later, being affected by them.

A. Corrupt the young; get them away from religion. Get them interested in sex. Make them superficial; destroy their ruggedness.

B. Get control of all means of publicity, thereby :

1. Get people's minds off their government by focusing their attention on athletics, sexy books, plays and immoral movies.

2. Divide the people into hostile groups by constantly harping on controversial matters of no importance.

3. Destroy the people's faith in their natural leaders by holding the latter up to contempt, ridicule and disgrace.

4. Always preach true democracy, but seize power as fast and as ruthlessly as possible.

5. By encouraging government extravagance, destroy its credit, produce years of inflation with rising prices and general discontent.

6. Incite unnecessary strikes in vital industries, encourage civil disorders and foster a lenient and soft attitude on the part of government toward such disorders.

7. Cause breakdown of the old moral virtues—honesty, sobriety, self-restraint, faith in the pledged word, ruggedness.

C. Cause the registration of all firearms on some pretext, with a view to confiscating them and leaving the population helpless.

That is quite a list, isn't it? Now, stop to think—How many of these rules are being carried out in this nation today?

NOTE.—To the best of our knowledge, this article was first printed in Bartlesville Examiner-Enterprise in 1919. It was reprinted again in 1946 in The New World News, after the Florida attorney general secured it from a known member of the communist party, who acknowledged that it was then still a part of the communist program.

CHAIRMAN AND MEMBERS,

House Judiciary Committee, Subcommittee on Crime, Congress of the United States, Washington, D.C.

LADIES AND GENTLEMEN: It has come to my attention that your organization is currently considering several bills regarding gun control, and that you wish to hear the opinion of the public concerning such legislation. I would like to present my views at this time.

I am adamantly opposed to any legislation designed to limit or eliminate manufacture, sale or private ownership of long guns, shotguns, or handguns. I have spent a good deal of time thinking about this matter and some time researching it, and I would appreciate your taking the time to consider some of the points brought out in the remainder of this letter.

It is difficult to get an objective view or opinion of gun control, the issue is an emotional one which deals with basic philosophies not easily brought forth for examination. Statistics are cited on both sides, but seem to be more excuses for airing views than bases for sound argument. Nevertheless, since statistics are used, I'd like to cite some that may not have been considered.

Two figures are commonly accepted by both sides; 20,000 people are killed in the United States each year by use of guns, either in suicides, accidents or crimes, and 40,000,000 guns are privately owned in the United States. This means that 0.05 percent of the privately owned guns are involved in injuries of all kinds. One of the basic principles of the law, so I believe, is that it is better for "10,000 guilty men to walk free than for one innocent man to be punished." In banning ownership of these guns, 2,000 people would be punished for the actions of one.

Another number commonly brought forth is the ratio of injury of innocents versus intruders in the home. It is said that a gun in the home is five times more likely to be used to harm a friend or relative than to repel an intruder. It is here that the use of statistics becomes questionable. The issue is not the cold statistics of who is injured, but the necessity of defending one's home. The regrettably high number of people injured under the category of "innocent" must be weighed against the entire philosophy of the sanctity of the home, not against the numbers of repelled criminals. The right to privacy is being preserved by actions on many levels of government, to prevent abuse by authorities; but the right to sanctity must be defended against criminals who pay no heed to Congressional guidelines. The rising crime rate in the United States, another widely accepted set of statistics, argues that the various law-enforcement agen-

cies, through no fault of their own, cannot protect each individual home. This must be done by the people themselves. There is no statistic to predict the increase in crime in a society that has no means of protection.

Your Committee is questioning the ownership of small handguns, but the issues involved go far beyond this. Those who oppose private ownership of all guns have repeatedly said, "First eliminate Saturday-nite-specials, then all handguns, then all guns." I found it difficult to believe that anyone would take that first step down the road. I was in favor of registration, either Federal or local, of all guns.

But no longer. The motion to adopt an ordinance banning private ownership of pistols and rifles of any kind, and to confiscate all registered weapons of this type, brought up for consideration by the City Council of Washington, DC, has turned me against any sort of registration. I cannot accept the promise that such registration on a Federal level would not result in confiscation. What happened to promises made to the American public with regard to the harmlessness of the Central Intelligence Agency, the Federal Bureau of Investigation and the Internal Revenue Service? Am I to believe the promises of the legislative body which in 1968 passed a Federal gun-control law, and in that same year issued me a rifle and a handgun and sent me to Vietnam with orders to kill? I cannot.

The subversion of institutions designed to serve the public, changing them to institutions designed to control the public, has happened in other countries with the same tragic result; tyranny. Thomas Jefferson listed three reasons why free men in the United States should keep privately-owned weapons: to hunt for food, to defend one's home, and to overthrow a tyrannical government. This third reason is largely ignored, under the belief that "It cannot happen here," and the suggestion that these reasons are no longer valid in modern times. But certainly of all the agencies of government, your committee is one of the very few that must realize just how close we came to this same result. We must not bury our heads in the sand and forget that a President of the United States was, within the last year, forced to resign or face impeachment for criminal acts and abuse of the awesome power granted the Chief Executive of the mightiest nation on earth. Ladies and Gentlemen, it can happen here. Mr. Jefferson's reasoning is as valid now as it was 200 years ago when he and others like him formulated the principles upon which our country was founded.

The concept of hunting for one's food has been called archaic as well. But in recent years, we have seen times when no meat was available in the supermarket, and the numbers of applications for hunting licenses doubled. I do not normally hunt for my food, but I will reserve the right and preserve the means to do it if I must.

Those people who live in large cities, who do not hunt and know little or nothing about the proper use of guns, who are the victims of the incredible rise in crime, are deathly afraid of guns; of handguns in particular. The conditions in large cities resemble those in jungles. These people, the potential and real victims of violent crimes, are desperately seeking an end to the deplorable conditions, and wish to eliminate handguns to end crimes committed with them. But just as in a real jungle, predators cannot be eliminated by legislating against teeth.

Recently the Wall Street Journal advocated, in an editorial, that women should, when faced with potential rape, submit passively rather than cause harm to the rapist and thereby bring his wrath upon the victim, resulting in more harm to the victim. I am not a woman and I certainly have never been a victim of rape, but even so I find this attitude toward such an abhorrent and despicable invasion of ultimate privacy to be nothing short of incredible and foolhardy. Yet this is an example of the desperation felt by dwellers in the jungles of our cities; in the panic to escape, the victim often runs deeper into the jungle, into the claws and teeth of the waiting predator.

In legislating against handguns, the Congress of the United States would build a monument to repeated error. Nothing would have been learned from the attempt to prohibit alcohol; the fact that little marijuana and few opium poppies are grown in the United States, yet we have a tremendous and tragic drug problem, must also be ignored. Legislation against handguns would be just as ineffective, just as unenforceable.

Nothing is as essential to an Army as its weaponry; yet when it is no longer needed, as demonstrated in Napoleon's retreat from Moscow and again in the tragic retreat of the South Vietnamese, the weaponry is the first to be dis-

carded. It follows that when the American public no longer needs handguns, they will be discarded. Until that time, no law will be effective which outlaws the teeth of the lion and declares all people to be sheep.

I have always obeyed the law, as much as anyone ever does, I have served my country when asked to do so; I have taught my children to do the same. By legislating against handguns, or any guns, you will simply place me outside the law; for I do not believe that any legislative body has the right to eliminate the means to protect myself, my family and my home and I cannot obey a law that would do this.

I offer an alternative. Based on the fact that knowledge will always triumph over ignorance, that education is one of America's most valued resources, I suggest a program of education in the proper use and the dangers of misusing firearms. If the schools see fit to offer driver training, certainly the same philosophy could be applied to firearms training. The Army of Switzerland, not a super-military by any means, but one I would not care to engage in battle, is trained and given weapons to maintain in the home with no resultant deadly increase in crime. Firearms safety can and should be taught to American children, just as I am teaching my children. The knowledge of the use and misuse of firearms will reduce the rates of accidental injury, and will allow the American Public to retain the right to keep and bear arms as I believe is guaranteed in the Constitution of the United States.

Thank you for your consideration.

JAMES M. O'MEARA.

APRIL 30, 1975.

Hon. PETER RODINO,

Chairman, Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR: In regard to handgun control, some comments as a private citizen. But first, if you and staff weight comments in terms of credentials and motives, a couple of background facts.

I am a senior officer in the Central Intelligence Agency planning on going into the criminal justice field as a second career (am currently a member of the Northern Virginia Criminal Justice Advisory Council). I have handled small arms since age 12, later, in various roles, all sorts of weapons short of artillery.

My view is simple. Handguns, not to speak of semi-automatic and automatic weapons, have one purpose only: to kill or maim human beings. I agree totally with Jerry Wilson that the answer is to preclude the manufacture, sale, or importation of handguns in this country, with the exception of controlled issuance and use by trained law enforcement authorities and the military (with considerable doubts on the efficacy of handguns in combat). You will, hopefully, have his testimony. I also heard Pat Murphy on this subject recently declaring that for every deliberate homicide with a handgun, something like eight persons were killed or wounded as a result of accidents with handguns in the home. While I'm a little fuzzy on the basis for his statistics, surely his testimony should also be heard.

A few points undoubtedly familiar to you, but worth reiterating:

a. The common conception, fostered by the NRA, manufacturer, and arms dealer lobbies is that bearing weapons is a constitutional right. Of all the myths, this needs the most attention. The second amendment clearly states that "a *well regulated militia*, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed" (emphasis mine). Perhaps there are subsequent interpretations of Constitutional Law which broaden this to grant every citizen the right to keep a gun. I don't know, but the issue is worth airing.

b. The current press to outlaw ammunition sales under the Consumer Protection Act is nonsense, diverts attention from the main issue. Why not outlaw automobiles?

c. Sportsmanship. If a tiny minority find pleasure in shooting at paper targets, let them. Easily controlled.

4. In sum, I urge you to develop legislation to totally outlaw the manufacture, distribution, sale, and possession of handguns (subject to above qualifications) in the United States. While it is true that there are an infinite number of means for killing, from knives, shotguns, rifles, poison, automobiles, etc., the handgun should be focused on as having no other purpose.

Respectfully,

PETER D. DYKE.

HUNTINGTON, W. VA., May 1, 1975.

HON. JOHN CONYERS,
Chairman, Subcommittee on Crime, House Judiciary Committee, U.S. Congress,
Washington, D.C.

SIR: I strongly urge you to oppose Honorable Jonathan B. Bingham's bill H.R. 40; Honorable Ralph H. Metcalfe's bill H.R. 1333, and Honorable Robert F. Drinan's bills H.R. 1601 and H.R. 2433.

Antigun law proponents are fond of citing the results of polls, frequently claiming as much as 75 percent of the public favors strict gun control. The facts are that the overwhelming majority of Americans are strongly opposed to restrictive and/or confiscatory gun laws. (As witness the recent citizen response to the Consumer Product Safety Commission's being asked to consider handgun ammunition a hazardous substance—an overwhelming 37,000 letters of protest, with only 118 in favor of the ban).

If 75 percent of the people favored strict gun control, such legislation would have been enacted long ago.

Antigun people also play up prominently statistics on firearms-caused deaths, but ignore the percentages pointed out by Senator James A. McClure—if 2/100th of one percent of the Nation's handguns were used to commit homicides, that is hardly justification for disarming the other 99.98 percent of handgun owners who did not use their guns to commit homicide. Rather, let us enact legislation penalizing criminal use of guns.

Much is made of the many crimes committed by or with the use of guns, but nothing is said about the many instances wherein a gun is used to halt or prevent a criminal act. The concept of disarming the citizenry and depending on the police for protection from criminals is a fallacy. I am one hundred percent behind our police—they are doing a wonderful job. But the police cannot be everywhere all the time, and the criminal seldom makes his move when the police are standing by. It takes precious time to reach a telephone and call the police. It takes more time for the police to reach the scene. And it is scant comfort to the victim to have the police apprehend the criminal if said victim has been robbed, raped, beaten, stabbed or shot before the police arrived. I prefer to be prepared to protect myself and family against criminal acts until the police arrive.

In my area, a young woman living alone was found stabbed to death in her apartment, telephone in hand. She had no gun, and presumably had been attempting to call the police when her assailant struck. In another case, a man living alone was found beaten to death in his trailer home—he had no gun. Contrast these two crimes to another incident in my area—a young mother, alone at night with her child in their trailer home while her husband was at work, was terrified when someone attempted to force entry. When she attempted to call the police, she found the telephone dead. (The assailant had cut the wires). When the assailant continued to attempt to break in, the young woman fired through the door with a handgun, and the would-be intruder fled.

The reason crime is increasing is that criminals are increasing in numbers every year, and are becoming ever more bold. Not one of the anti-gun group has proposed a workable plan for taking the guns away from the criminals, or for keeping guns out of the hands of criminals once they have been confiscated. The criminal mind understands nothing better than the business end of a gun in the hands of a citizen capable of using it, and those loaded guns in the possession of our law-abiding citizens constitute the strongest crime deterrent in the country. Laws requiring registration, licensing or confiscation of firearms will accomplish nothing except to disarm the law-abiding citizenry of this country. And once this is effected, once the criminal element is assured their proposed victims are unarmed, it is feared a crime wave of unheard of proportions will be triggered and no citizen will be safe in his own home.

Respectfully,

JAMES T. SAULS.

COMMONWEALTH OF VIRGINIA,

HOUSE OF DELEGATES,
Richmond, Va., May 26, 1975.

Congressman JOHN CONYERS,
House Judiciary Committee, Congress of the United States, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CONYERS: It has come to my attention that the crime subcommittee of the House Judiciary Committee is presently actively consider-

ing additional gun control legislation. There appears to be a substantial chance that the subcommittee will recommend some form of hand gun registration. While this is not a matter on which the state legislature will have any influence, I, as a representative of nearly 100,000 constituents in my legislative district, feel an obligation to make my feelings, and those of my constituents, known before the subcommittee acts.

I oppose any law which would require the licensing, registration, or the confiscating of firearms by the federal government. Though the law-abiding citizen certainly would comply with such laws, the criminal would not. Such legislation could result in increased federal expenditures and harassment of the law-abiding gun owner. If gun laws are to be effective in reducing crime, they should be directed at the criminal rather than at the gun.

I believe the matter of gun laws is one that can best be handled by state government. I supported a bill in our last legislative session to make the use of a gun in the commission of a crime a separate offense. I am anxious to assure that our criminal justice system deals harshly with criminals who use guns. But I do not believe that federal intervention in the matter of gun control can result in any improvement in our laws or in our law enforcement.

Very truly yours,

MARSHALL COLEMAN.

ALEXANDRIA, VA., June 13, 1975.

To: Members of the House and Senate Judiciary Committees.

If you had spent a part of your career in big city hospitals you would not have to be convinced of the importance of gun control.

You have no idea of the carnage being generated by hand guns. How many more tragedies as in Senator Stennis, George Wallace, Bobby Kennedy must we have before you awaken yourselves?

You can run from a fist or a knife. But how do you defend yourself against a gun?

Hand guns should be outlawed. Period!

Yours very truly,

ROBERT KOTLER, M.D.

SINTERED SPECIALTIES DIVISION,
PANORAMIC CORP.,
July 16, 1975.

Representative LES ASPIN,
House Office Building, Washington, D.C.

DEAR MR. ASPIN: The goal of H.R. 3773 is excellent, however, at least one section is technically and economically irresponsible. This section states "structural components may not be used which melt at less than 1000° or are made of a material of a tensile strength of less than 55,000 psi or powered metal components having a density of less than 7.5 g/cc."

Time does not permit attempt to educate all House of Representatives members in the science of materials in general and in the field of powder metallurgy in particular but a few comments are appropriate. Most iron-base powder metal products have a density below 7.5 g/cc. and still operate satisfactorily in highly stressed applications. Such products are used widely including usage in legitimate guns. Complete technical information can be obtained from the Metal Powder Industries Federation at P.O. Box 2054 in Princeton, New Jersey.

If this legislation is passed, this same type of irresponsibility could subsequently be applied to improperly legislate the powder metal parts industry out of other markets where high stress or personal safety could be involved. Our firm's major market, for example, is automotive and we certainly could be adversely affected. Such legislation thus could in time cost the jobs of the majority of our seventy-five employees.

Based on this logic, I urge you to not vote on this bill and any legislation involving highly complex technology, such as powder metallurgy, until you are able to obtain the facts from knowledgeable people in the industry itself. Please do not be a party to legislation that might cure a disease but kill the patient.

Sincerely yours,

JOHN E. ANDERSON,
General Manager.

TARRANT COUNTY PAWNBROKERS ASSOCIATION,
July 18, 1975.

President GERALD R. FORD,
 1600 Pennsylvania Avenue, Washington, D.C.

DEAR PRESIDENT: We have noted in the news media that you are planning to send to Congress a Gun Control Bill. We would like to inject a few thoughts into your bill.

As Gun Dealers and Pawn Brokers, this group represents many decades of experience as Gun Dealers.

We are 100 per cent in agreement with you that the so called "Saturday Night Specials" should be eliminated from the market place. We urge Congress to stop all importing and U.S. manufacturing of all low grade hand guns and parts.

Also, we recommend that the Congress empower the ATF to repurchase as many as possible of the outstanding "Saturday Night Specials" and appropriate the proper funds. We also urge that these guns be bought back through the Dealer Organizations.

A registration fee or tax on any gun sold in the future of \$15.00 per transfer. One third of which we recommend to go directly to the dealer to handle the paper work and storage of waiting period guns and of the 4473 forms kept for the ATF. The Treasury portion of the tax could be used to buy the "Saturday Night Specials."

The following are our recommendations pertaining to the sale of guns:

1. Registration of all guns that shoot powder driven projectile, Black Powder and Curlos, included.

2. A clear cut definition of a dealer and also a definition of a Saturday Night Special. We suggest these guns be identified by Make, Model, Etc.

3. It is recommended that the dealers license be increased from \$25.00 to \$500.00 per annum. Also that persons selling guns at Flea Markets, Gun Shows, Garage Sales or any other type of bartering be placed under this ruling.

4. We heartily recommend that the ATF be expanded substantially to be in a position to handle the new laws efficiently. We concur with your thoughts that a mandatory sentence be given anyone committing a crime with a gun.

5. A 4473 form must be filled out by any person purchasing or obtaining a firearm from any source. They should go through a dealer and adhere to the 3 day waiting period and pay the tax of the transfer. Failing to do so would constitute a felony.

6. We recommend that Pawned Guns be handled separately. When the original pawnor redeems a firearm there should not be a three day waiting period. Multiple gun sales (Section 178.126a of Title 26) should not apply to firearms redeemed by the pawnor.

7. We recommend that restitution should be made a part of all criminal prosecution.

8. It is recommended that our 18 year olds be allowed to buy handguns as well as long guns since they are old enough to serve in the Armed Forces and vote.

9. It is recommended that better protection be afforded our military arsenals as a large number of Automatic Weapons and destructive devices are being stolen from these installations.

10. It is further recommended that certain businessmen operating in high crime areas be allowed a permit to carry a weapon for their protection. This permit to be issued by the ATF.

11. It is recommended that all gun transactions be governed by one Governmental Agency, namely the ATF.

We have a number of dealers that are available for testimony before any hearing that might take place in Washington on the above subjects.

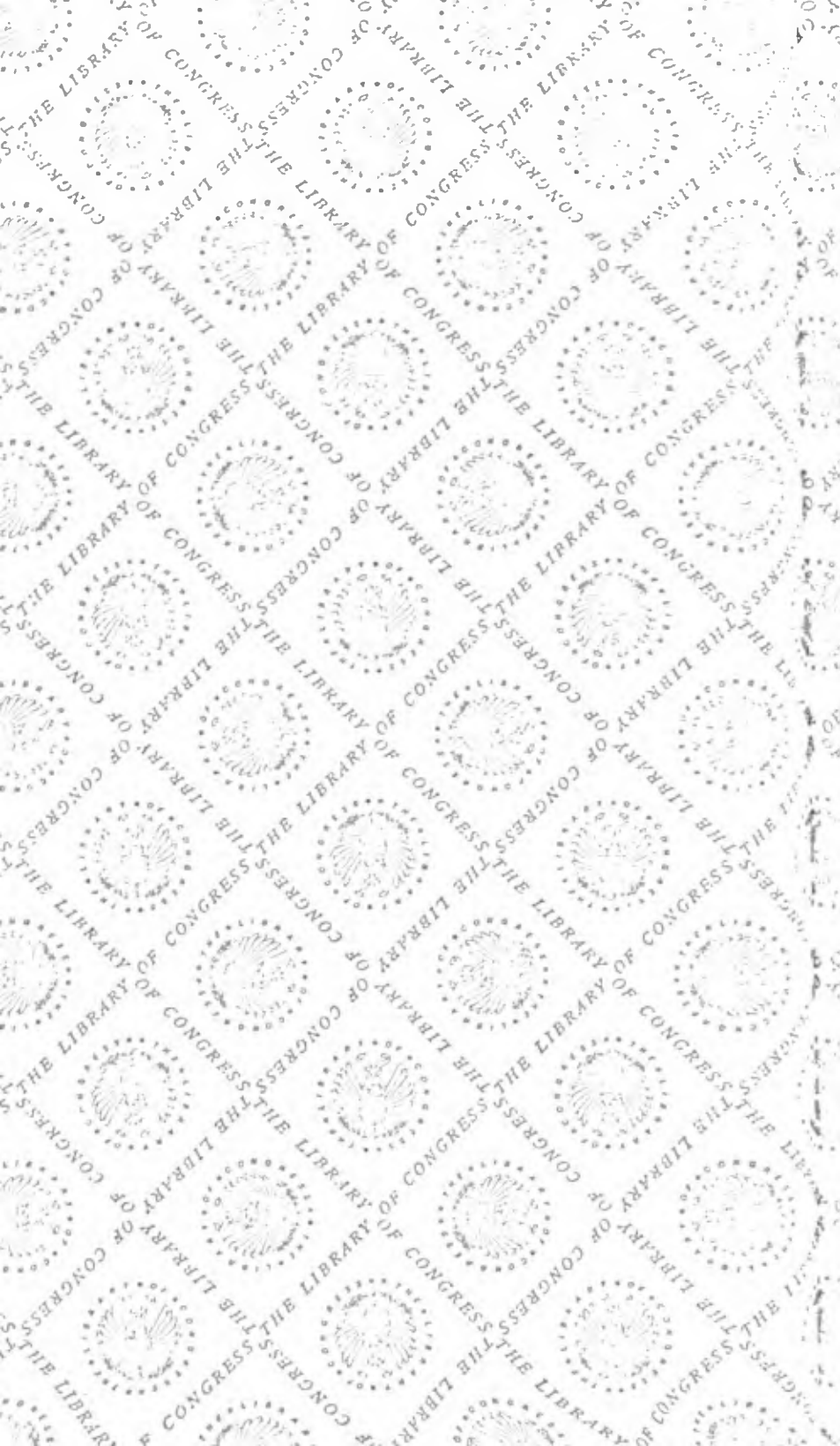
We congratulate you on taking a stand on crime in the streets and the proper regulation of guns.

Sincerely yours,

H. A. WALTERS, *President.*

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